

**The Road to Home:
Adoption and Permanent Custody and Guardianship for
Baltimore City Children in Foster Care**

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Prepared for the Abell Foundation

By Martha Holleman, Strategic Thinking for Social Change

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The Road to Home: Adoption and Permanent Custody and Guardianship for Baltimore City Children in Foster Care

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Executive Summary

What happens to Baltimore City children in foster care when they are not able to return to their own homes and families? To answer this question, the following report:

- Documents the current status of children under the care of the Baltimore City Department of Social Services (BCDSS) with respect to adoptions and permanent guardianships;
- Identifies existing barriers to permanent homes for these children;
- Explores opportunities emerging from changes in federal policy and the experience of other jurisdictions for overcoming these barriers; and
- Offers an initial set of recommendations for increasing the rate, pace, and success of adoptions and guardianships for Baltimore City children.

Key Findings

Available data give a mixed picture of the status of Baltimore City children under the care of the Department of Social Services with respect to adoptions and permanent legal guardianships.

On the one hand, stabilized leadership at the city and state levels are beginning to have some effect on the number and rate of Baltimore City children who find permanent homes through adoption. More families *may* be receiving guardianship subsidies for the children in their care.

As one interviewee told us:

“There is no question that there is a significant improvement. More children are being adopted... and there has been increased access to and use of Custody and Guardianship subsidies.”

On the other hand, as both an absolute number and as a rate, fewer children are adopted from the BCDSS than were adopted seven years ago. The median time to adoption in Baltimore City is considerably longer than in jurisdictions that share its demographic and social characteristics (and for which comparisons are available). Fewer children—again as both a number and as a rate—are finding permanent homes with legal guardians than they were in 2002. With Baltimore as its driver, Maryland falls below the

national median on each of the permanency measures tracked in the Maryland Child Welfare Accountability Report. The state's child welfare system is under federal review for its failure to meet key permanency benchmarks tracked by the federal Child and Family Service Review (CFSR).

Barriers

Barriers to achieving timely adoptions and guardianships fall into two broad categories: those resulting from the policies and practices of the BCDSS and barriers emerging from the press of cases under the jurisdiction of the Baltimore City Juvenile Court.

Interviewees note that BCDSS is undergoing serious and substantial reforms that hold promise for future improvements in permanency outcomes for children. They also note clear, compelling, and immediate need for additional reforms—for greater focus, greater transparency, and greater accountability in ensuring that every child who is removed from his/her home by the state and is unable to return to that home quickly finds another, permanent family. Conducting effective case practice to standards and on time; and recruiting and working with resource parents are areas of particular concern.

Interviewees also told us of the strong leadership of the current chief administrative judge and the difference this leadership is making at the courthouse. As one put it, "The current (juvenile court) administration is as strong as it ever has been." Yet again, interviewees were almost unanimous in citing the degree to which persistent court resource and time constraints hinder the processing of child welfare cases—and the goal of permanency. "Just do the math," said one key informant, referring to the average of roughly 120 cases a day scheduled for 6.5 judges and masters.

Experience Elsewhere

A look at the current experience of other jurisdictions suggests that making adoption of children from foster care a broad public priority and enlisting other partners, besides the public agencies most directly involved, can dramatically increase the number of children who find permanent homes. Aggressively searching out other relatives of children in care can surface potential adoptive and guardian families. Investing in supports for adoptive families post-adoption can improve success rates (and reduce dissolutions), and providing support to kinship caregivers that might enable them to become licensed care providers (and therefore be eligible for increased state support) can increase the number and success of permanent legal guardianships.

Recommendations

Immediate opportunities to further the reforms already under way by the Baltimore City Department of Social Services and the Baltimore City Circuit Court include:

- *Addressing chronic staffing and resource shortages at the Baltimore City Juvenile Court.* One judge, one master, and two additional court rooms should be added, and space for courtrooms in the Baltimore City Juvenile Justice Center should be found. The need for further judicial resources should then be assessed against the volume of cases and re-addressed in two to three years, once the initial infusion of resources has had time to take effect. Back-of-the-envelope estimates place the cost for staffing and outfitting an additional courtroom at \$500,000. This is, no doubt, a difficult climate in which to ask for an infusion of resources, yet should Maryland move to increase federal matching funds for child welfare (more on this below), sufficient state resources may be freed up for this important, and necessary, investment.

- As some of the pressures on the docket ease through additional court resources—and even as these additional resources are advocated for and put in place—the Baltimore City Juvenile Court, and its colleague child, parent, and BCDSS attorneys, can and should join together to *put in place additional supports and incentives to expedite permanency for Baltimore City children in foster care.* This work should begin with the question: *How can we make each appearance at the court an opportunity to move more quickly toward permanency?* As suggested by interviewees for this study, items under discussion may include:
 - Trigger mechanisms in the court data and tracking system that note when a case has reached critical benchmarks so that it can be flagged for action;
 - Training and tools for judges and masters that include a summary of the research findings on permanency, a review of the court’s role in moving cases along, and suggested questions and action steps at each stage of the judicial process; and
 - Scorecards that track the performance of individual judges and masters in getting cases to closure.

- The Baltimore City Department of Social Services and the Maryland Department of Human Resources can and should *make clear plans for the Place Matters initiative (its signature effort) as it progresses beyond an initial emphasis on moving children out of group homes to placing more children in permanent families.* These plans should include:
 - The use of administrative data to identify and group cases for expedited action toward permanency;
 - Support, training, and tools for caseworkers and their supervisors that detail responsibilities for establishing a service agreement for parents from whom children have been removed, locating absent parents, notifying relatives, documenting ‘reasonable efforts’ toward reunification, pursuing concurrent permanency planning, and outlining specific action steps when adoption or guardianship becomes the permanency plan;

- Performance assessments and incentives for caseworkers and supervisors tied to permanency benchmarks;
- Improved preparation and filing of petitions for the termination of parental rights (a necessary precursor to adoption) on the schedule mandated by federal law and including procedures for the use of a provision in Maryland law waiving attempts at reunification should certain conditions exist;
- Continued improvements to efforts to recruit and support foster and adoptive parents;
- An enhanced approach to adoption that clearly outlines a role for private adoption agencies, and uses more sophisticated methods to identify, recruit, and retain potential adoptive parents; prepare children for adoption; and match families. The BCDSS should also consider establishing a public/private partnership to handle parent recruitment and relationships between private providers and the state, and to set adoption goals and monitor progress. These efforts could be sustained through a reinvestment strategy such as the Maryland Opportunity Compact¹ or other means to capture a return on investment and use avoided costs to support the effort moving forward;
- An enhanced approach to guardianship that identifies and offers flexible financial support for kinship caregivers so that they can shore up minor home-safety concerns and make other improvements that would allow them to become permanent legal guardians for the children for whom they already provide a stable and safe home. In addition, data and reporting issues with respect to tracking guardianships need to be cleaned up so that progress can clearly be measured.
- As a potential means for paying for the above reforms, and others required across the child welfare system, the Maryland Department of Human Resources, the Maryland Department of Budget and Management, and the Department of Legislative Services should *track and independently report Maryland's history of IV-E claiming, eligibility, and penetration rates for both adoption and foster care maintenance*

¹ Maryland Opportunity Compacts, originated by the Baltimore Safe and Sound Campaign, leverage investments of private sector resources to seed effective strategies that improve lives—strategies such as drug treatment, case management, and jobs. These investments reduce the need for public expenditures and save government money as a result. As savings are documented, they are shared between the effort that created them and the state—sustaining efforts beyond a start-up phase and then further expanding opportunity and improving the lives of more Marylanders.

payments. The federal IV-E Foster Care Program provides matching payments to states for outlays on foster care room and board expenses, adoption subsidies, and allowable administrative costs. Based on an analysis of Maryland's IV-E claims history over the past 10 years conducted for this report, it appears that the DHR may not be receiving all of the IV-E funds for which it is eligible. If an under-claim exists, the DHR should produce an action plan and timeline for recouping federal funds.

- This plan should be produced in conjunction with a plan for utilizing key provisions of the federal Fostering Connections Act and further reducing any remaining financial disincentives to permanency. This should include a plan for the expansion of eligibility for federal adoption subsidies as well as a determination of how best to coordinate the state's current guardianship subsidy program with the expanded subsidies under Fostering Connections to ensure that all families who might be able to take advantage of this funding mechanism are made aware of the opportunity. In addition, the plan should address any amendments to the state's IV-E Plan that are required for claiming these subsidies. Finally, the DHR should produce a clear investment strategy that lays out how recouped state funds, freed up by increased federal claiming, and any further federal funds received through these and other incentive awards, will be re-invested in improvements in child welfare to meet federal Maintenance of Effort requirements and, most important, to expedite permanency for children under the state's care.

Building on the promising reforms and the strong leadership already in place, these steps should lead to measurable improvements in the number of Baltimore City children who find permanent families.

Call for Increased Attention and Concern

Neither the courts nor the BCDSS can accomplish this work on their own, Additional action is also required on the part of the broader community in whose name children have been removed from their homes. Here, as well, immediate opportunities exist. Maryland residents can step up in ever greater numbers to serve as foster and adoptive parents. We can ask our elected officials to provide necessary resources and direction to public agencies and their leaders to enact suggested reforms. Private funders and volunteers can join with these agencies to seed and support further innovation. And we can continue to demand accountability for progress; measured and reported in publicly available, clear, and consistent ways. Certainly, children in foster care deserve no less. Indeed, what they both deserve and need is a place to call home.

The Road to Home: Adoption and Permanent Custody and Guardianship for Baltimore City Children in Foster Care

Introduction

What happens to Baltimore City children in foster care² when they are not able to return to their own homes and families? This question is at the heart of *The Road to Home: Adoption and Permanent Custody and Guardianship for Baltimore City Children in Foster Care*, the second such Abell Report to tackle the subject.³

To answer it, and in an attempt to build on the previous work, this study seeks to:

- Document the current status of children under the care of the Baltimore City Department of Social Services (BCDSS) with respect to adoptions and permanent guardianships;
- Identify existing barriers to permanent homes for these children;
- Explore opportunities emerging from changes in federal policy and the experience of other jurisdictions for overcoming these barriers; and
- Offer an initial set of recommendations for increasing the rate, pace, and success of adoptions and guardianships for Baltimore City children.

This analysis is motivated by the recognition that other than the Baltimore City public schools, there is no public system more directly involved in the lives of more Baltimore City children than the BCDSS. Alongside ensuring the safety of these children, there is no goal more important to their successful development—as evidenced by research and as stated in law—than that they grow up in permanent, stable, and supportive families. Children served by the BCDSS are our children; they have been removed from their families in our name. If we care about the future of our city—about its ability to grow and prosper—we must also care deeply about these children, about their own opportunities to prosper and to grow.

² Throughout this paper, the term ‘foster care’ is used to represent the placement of children outside their homes by the state of Maryland for reasons related to their safety and well-being. Used in this generic way, it refers to all out-of-home placements including kinship care, foster care, group homes/congregate care, and therapeutic foster care.

³ See Sally C. Millemann, “A Study of Barriers to the Placement of Foster Care Children in Permanent Homes,” Advocates for Children and Youth, Baltimore, Maryland, for The Abell Foundation, 1995.

This analysis, we hope, is also a timely one given:

- The expressed policy goal of the administration of the Maryland Department of Human Resources (DHR) and of the BCDSS, under its **Place Matters** initiative, “to increase the number of permanent places for children to live and the number of reunifications, guardianships, and adoptions;”⁴
- The passage, in October of 2008, of the federal **Fostering Connections to Success and Increasing Adoptions Act**, which seeks to promote permanent families through guardianship and adoption, improve education and health care for children in foster care, and expand federal support to guardians and adoptive families;⁵
- The renegotiation of terms under the long-standing consent decree **LJ v. Massinga** concerning the well-being of children in foster care in Baltimore City and the enumeration of a set of performance standards for exiting the decree, a number of which have to do with securing permanent homes for children in care;⁶ and
- The efforts of new leadership in the BCDSS and at the Baltimore City Juvenile Court, which have resulted in increases in adoptions in the last two years over the previous three, and a substantial reduction of backlogged child welfare cases at the courthouse—demonstrating that further progress is indeed possible.

These conditions combine to make this an ideal opportunity to examine where Baltimore stands vis-à-vis securing permanent homes for children in foster care through either adoption or permanent legal guardianship.

⁴“Child Welfare Indicators Moving in the Right Direction, New Social Work Practices Take Hold,” Maryland Department of Human Resources press release, November 17, 2008.

⁵ For an overview of this legislation, see The Children’s Defense Fund (CDF) and The Center for Law and Social Policy (CLASP), *Fostering Connections to Success and Increasing Adoptions Act (HR 6893) Summary*, November 2008.

⁶ In June, 2009, defendants DHR and BCDSS and plaintiffs’ counsel entered into a modified consent decree for resolution of the *LJ v. Massinga* (now known as *L.J. v. Donald*) class-action suit brought on behalf of children under the care of the Baltimore City Department of Social Services in 1984. Defendants then filed a motion to dismiss the case. The U.S. District Court for the District of Maryland, on October 9, 2009, denied the motion to dismiss and approved the modified consent decree over defendants’ objection. On November 2, 2009, the state filed an appeal of that order, but it did not seek a stay of the consent decree; hence, implementation of the requirements of the consent decree is under way. For an enumeration of standards for exiting the decree, see *LJ Proposed Modified Consent Decree* accessed at http://www.publicjustice.org/publicjustice/uploads/File/LJ_Proposed_Modified_Consent_Decree.pdf.

I. Why a Focus on Permanency?

A wide body of literature from the 1960s and later establishes that children are most secure when they are able to develop strong attachments, or bonds, to a single caregiver. If these bonds are disrupted and not re-established, as they can be in foster care, young people enter a sort of permanent grieving process. Without a stable surrogate caregiver, they may lose the ability to empathize with others or form intimate relationships—to develop and thrive. This lack of attachment further interferes with their normal growth, development, learning, and functioning.⁷

When children are unable to return to their families of origin, the question is: Who becomes the stable surrogate caregiver? Foster care, always designed to be temporary in nature, does not provide the ‘forever family’ that children and youth require for their healthy growth and development.

Confirming the early work on attachment cited above, a more recent meta-analysis comparing outcomes for children who were adopted with children who grew up in foster care found that:

*The main defining difference found between these two forms of substitute parenting appears to be the higher levels of emotional security, sense of belonging, and general well-being expressed by those growing up as adopted compared with those fostered long term.*⁸

Federal law and policy reflect the consensus that absent a return home, adoption and permanent legal guardianship are highly preferable to long-term foster care.⁹

- The Adoption Assistance and Child Welfare Act (AACWA) of 1980 provided federal funding for child welfare under the IV-E entitlement program allowing states to be partially reimbursed for services they provide to children in foster care, provided the child was eligible for income support under the old Aid to

⁷ See, for example, R.P.L. Bowl, *Separation and Loss and A Secure Base*, Rutledge, 1988; Colin Murray-Parks and Joan Stevenson-Hinder, *The Place of Attachment in Human Behavior*, Basic Books, 1982; and Joseph Goldstein et al, *The Best Interests of the Child*, 1966.

⁸ John Triseliotis, “Long-term foster care or adoption? The evidence examined,” *Child and Family Social Work* 2002, 7:22-33.

⁹ See, for example, Mark Testa, “When Children Cannot Return Home: Adoption and Guardianship,” *Children, Families and Foster Care. The Future of Children*, 14(1), The David and Lucille Packard Foundation, Winter 2004; and “A Summary of Major Child Welfare Laws prepared for Court Appointed Special Advocates,” accessed at: <http://www.casenet.org/reference/major-child-welfare-laws.htm>.

Families with Dependent Children (AFDC) program. It also created federal adoption subsidies for children with special needs.

- The Adoption and Safe Families Act (ASFA) of 1997 emphasized adoption as the primary desired solution for children who cannot return home; offered bonuses to states that increased the number of children adopted from child welfare agencies; and made possible discretionary Adoption Opportunities Grants to states and local jurisdictions to experiment with new approaches to safely move children out of foster care and into permanent homes. The ASFA also:
 - Established the standard that, absent certain conditions, petitions to Terminate Parental Rights (TPR) be automatically filed for children who have been in foster care for 15 of the last 22 months; and
 - Encouraged dual permanency planning (commonly referred to as ‘concurrent permanency planning’) for children in foster care—that is, planning for reunification with the family of origin AND at the same time pursuing efforts to place a child with an adoptive family or legal guardian.
- In the mid-1990s, states began to ask for and receive waivers that allowed them to use federal IV-E payments in more flexible ways, including as subsidies for permanent guardians—removing, at least in part, a financial disincentive to permanency for families that were receiving foster care or kinship care payments but would lose this support once permanent guardianship was conferred.
- To better track states’ progress, Congress mandated the Adoption and Foster Care Analysis and Reporting System (known as AFCARS) in the mid-1990s and required that the federal Department of Health and Human Services (HHS) conduct regular Child and Family Service Reviews (CFSRs) of child welfare agencies to assess the degree to which states were meeting permanency benchmarks and other child welfare goals.
- In the fall of 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections). Among other important provisions to shore up educational attainment and health care for children in foster care and extend public support for foster children up to age 21, this act:
 - Allows states to use federal IV-E matching funds, without a waiver, as subsidies for permanent legal guardians; and
 - De-links federal adoption assistance for children with special needs from the income of their birth families—effectively expanding the reach of this funding mechanism.¹⁰

¹⁰ The Children’s Defense Fund (CDF) and The Center for Law and Social Policy, November 2008.

Consistent with federal policy and congruent with what we know about the needs of our children, Maryland law makes permanency an explicit goal.

In Maryland, the process to permanency for children removed from their homes is intended to proceed as follows:

- Immediately upon removal, local departments of social services (LDSS) are to begin identifying suitable relatives, search out missing or absent parents, develop a service plan for the child and his or her family to explore reunification, and establish permanency goals for children.
- At 10 months post-removal, the court is to hold a permanency planning hearing where all parties—the LDSS attorney, the parent’s attorney, the child’s attorney, the LDSS case worker, the parent and the child—are to agree on a permanency plan for the child. This plan may pursue one of four options:
 - Reunification (return to the family of origin once family is stabilized);
 - Custody and Guardianship (legal custody to be granted to a suitable relative or other caregiver);
 - Adoption by relatives or other suitable candidates (for which TPR is required); or
 - Another Planned Permanent Living Arrangement (often referred to as APPLA or long-term foster care—the least desirable option).
- If a child is over the age of 14, a fifth option, Independent Living (where the child would maintain his or her own household upon reaching the age of 18), may be pursued.
- As stated in the ASFA, local departments of social services are to conduct concurrent planning for permanency, that is to begin simultaneously planning for reunification and another suitable permanency placement should reunification not succeed. Agencies may also seek a waiver from the court to move straight to TPR if they have reason to believe that reunification with the child’s birth family is not in the child’s best interest. (Maryland regulations give definition to the circumstances under which such an approach may be considered; conditions that include a prior TPR for a sibling.¹¹)
- Additional hearings are to be held at 18 months after removal and then every six months thereafter to follow up on the implementation of the permanency plan.

Federal and state standards and reporting mechanisms exist to encourage and gauge progress in meeting permanency timelines:

¹¹ See Code of Maryland Regulations (COMAR) 3 – 812, Courts and Judicial Proceedings.

- According to the ASFA, absent certain conditions agencies are to automatically file for TPR if children have been in care for 15 of the last 22 months.
- Among other outcomes, federal standards for permanency, as monitored under the CFSRs and reported through AFCARS, track:
 - Time to Reunification;
 - Time to Adoption;
 - Permanent Exits of Children who are Legally Free for Adoption; and
 - Permanent Exits for Children in Care for 24 Months or Longer.
- Court standards also exist and, in addition to establishing a 10-month permanency planning hearing, include the requirement that hearings concerning TPR be held in less than six months (180 days) after a petition has been filed.
- Effective as of October 2008, new Maryland regulations require the court to see each child in care at least once in a 12-month period to assess progress.

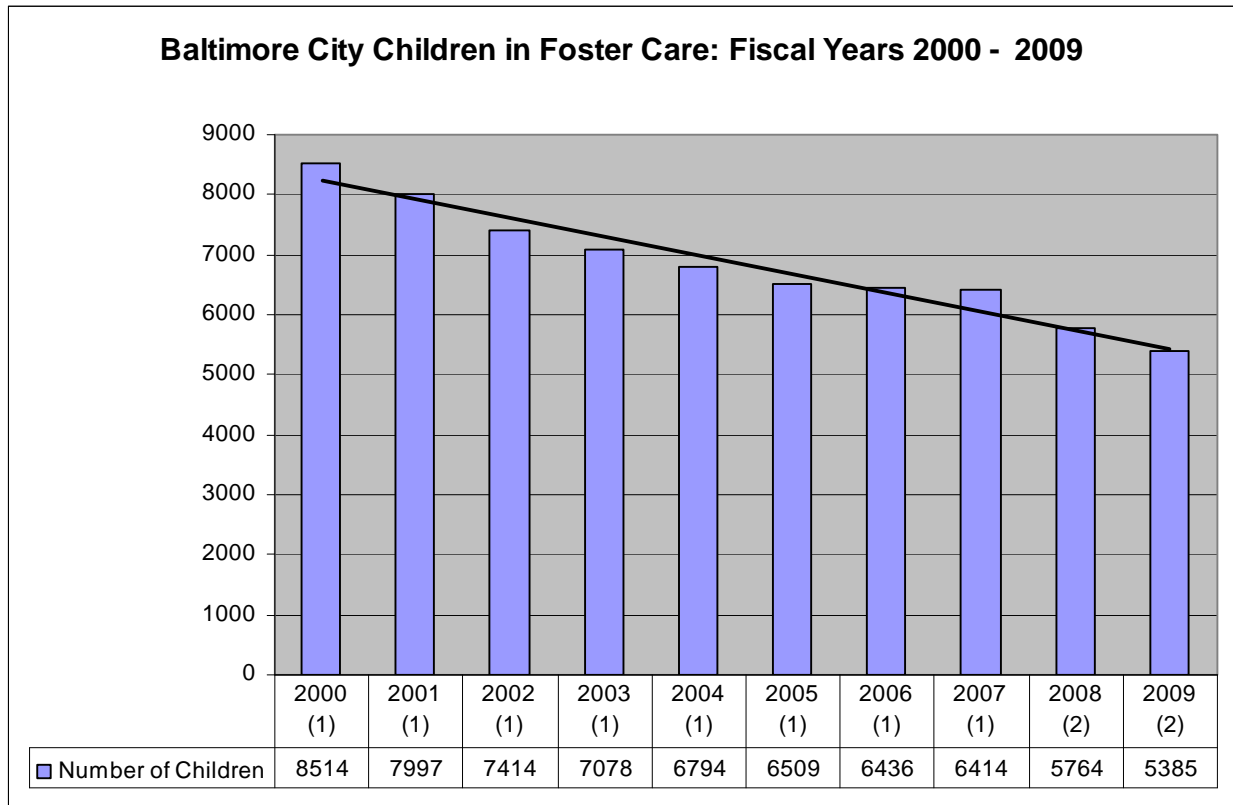
The research literature, federal law, and state policy all necessitate a focus on identifying permanent, stable, and supportive homes for children in foster care—as quickly as possible.

II. What Do We Know About Adoptions and Legal Guardianships for Baltimore City Children Under the Care of the Department of Social Services?

In state fiscal year 2009, there were more than 5,300 Baltimore City children in foster care.¹² This number is down significantly from the 8,500 children who were in care in fiscal year 2000. Corroborating data indicate that fewer children are coming into care: The annual number of Baltimore City children entering out-of-home placements has been cut almost in half from 1,826 in fiscal year 2002 to 957 in 2009. (See figures 1 and 2.)

¹² In state fiscal year 2009, Baltimore City had a reported 5,383 children in out-of-home placements. “Select Federal Adoption and Foster Care Analysis and Reporting System Measures for Baltimore City and Maryland, Fiscal Years 2002 -2009,” Maryland Department of Human Resources, prepared at the request of The Abell Foundation, October 2009.

Figure 1

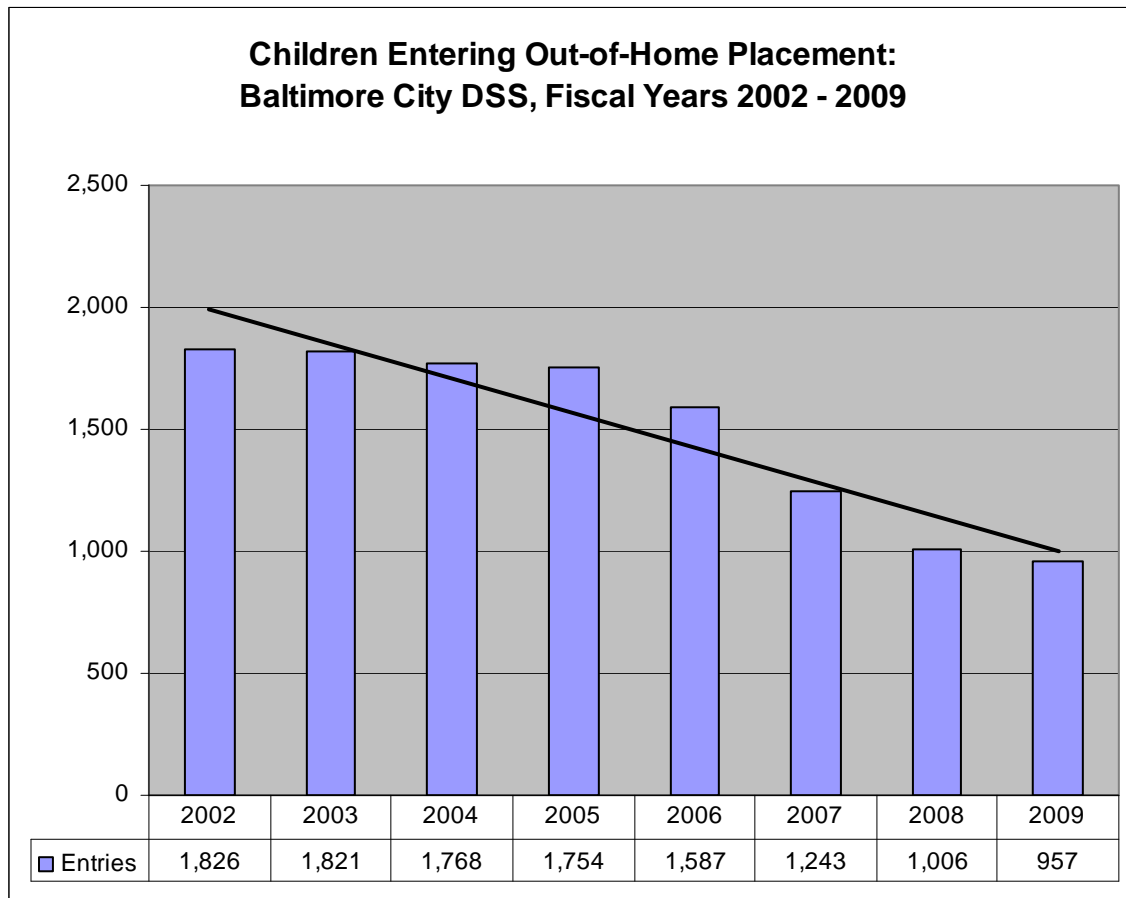


Sources:

- (1) Maryland Governor's Office for Children, *Report on Out-of-Home Placements and Family Preservation, Governor's Office for Children, 2007*. Annual averages calculated by author using beginning and end period totals.
- (2) Maryland Department of Human Resources, *Select Federal Adoption and Foster Care Analysis and Reporting System Measures for Baltimore City and Maryland, Fiscal Years 2002 -2009*, prepared for The Abell Foundation, October 15, 2009.

Trend line fitted by author.

Figure 2



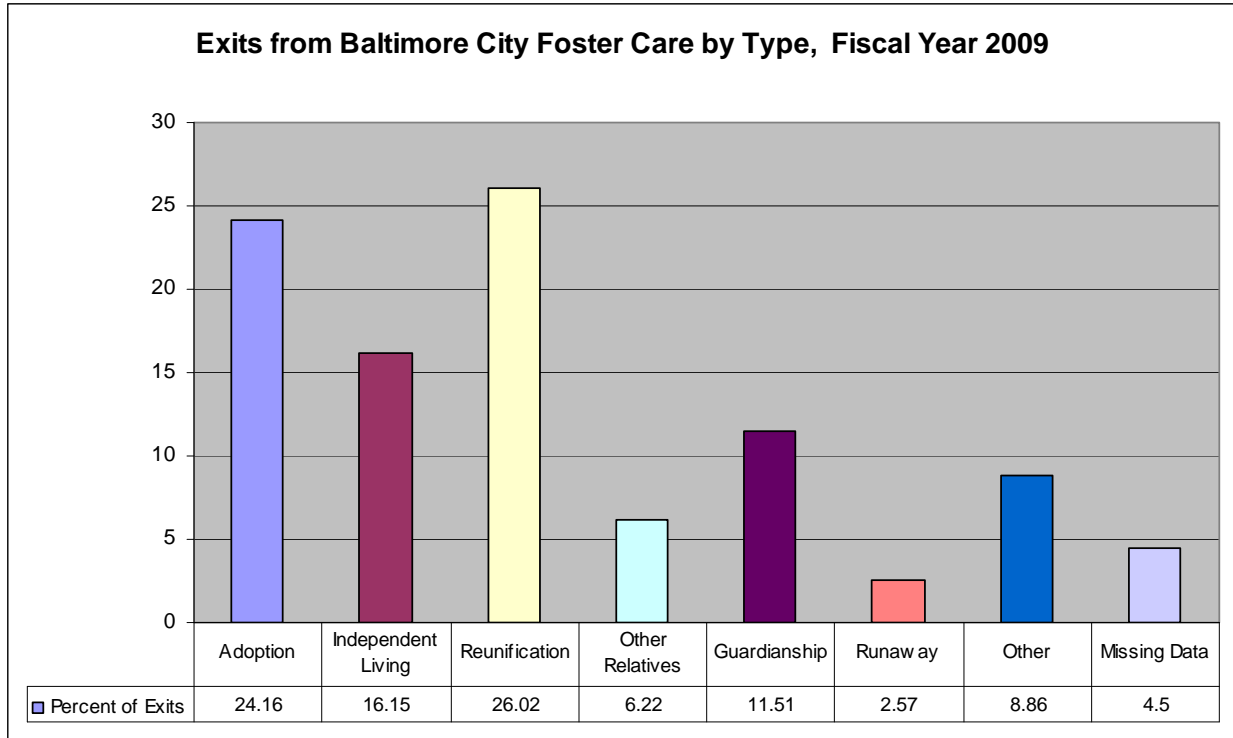
Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.
Trend line fitted by author.

Fewer children are coming into care. Are more children also leaving care more quickly? What about children who are not able to return to their families of origin? What can be said about the number, rate, and pace of adoptions and permanent legal guardianships for children under the care of the Baltimore City Department of Social Services? And how should we understand the current picture—how does what’s happening now for Baltimore children compare with city and state trends, other jurisdictions and national standards?

As noted in Figure 3, of the 1,399 Baltimore City children who exited from foster care in fiscal year 2009, 24 percent were adopted; 16 percent aged out of care and transitioned to independent living without a permanent family; 26 percent were reunified with their birth families; legal custody for another 18 percent was granted to family members or other permanent guardians; 2.6 percent ran away from care—their whereabouts unknown to the system. Another 9 percent left care for other reasons including transfer

to another jurisdiction, or, in the most unfortunate of circumstances, child death.¹³ Data on exit reasons were missing for another 4.5 percent of children who left care.

Figure 3



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Number and Rate of Adoptions from Baltimore City BCDSS

Adoption Snapshot

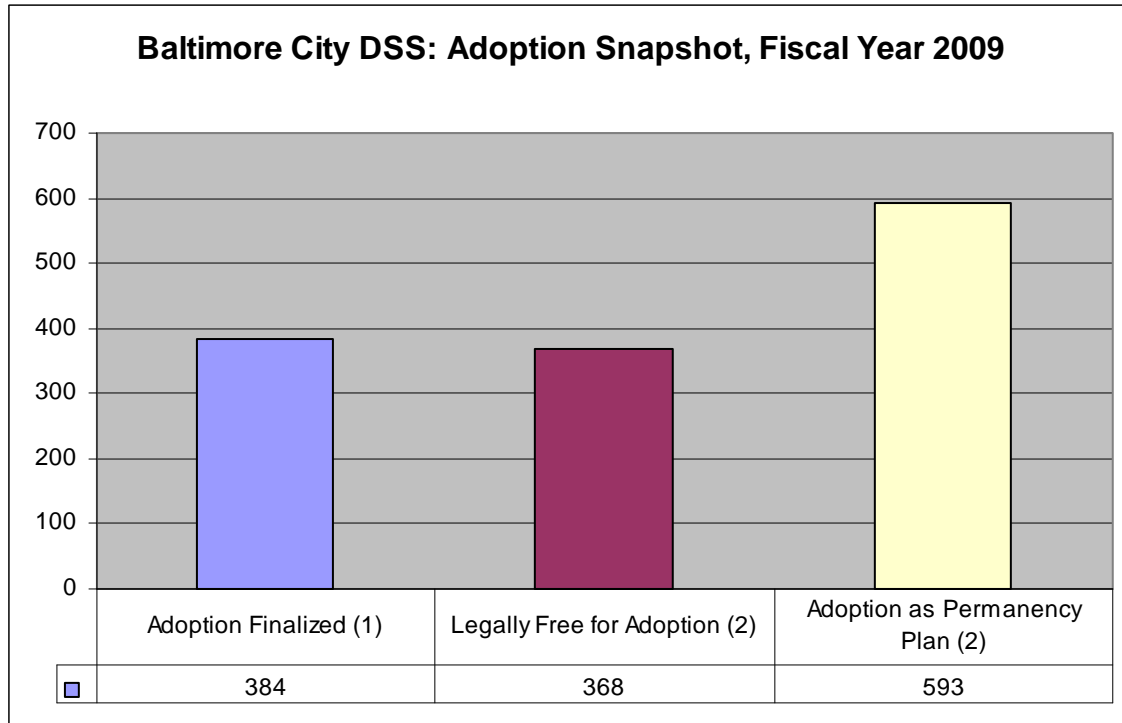
At the close of fiscal year 2009:

- 384 Baltimore City children had been adopted from foster care;¹⁴
- 368 children were legally free for adoption (meaning the custodial rights of their birth parents had been terminated but no adoption had yet been finalized); and
- 593 children had adoption as their stated permanency plan.

¹³ Components of the category ‘Other’ in exits from care are from Maryland Department of Human Resources StateStat, *Recent Trends*, July 2009.

¹⁴ In the data run prepared for this study, the Maryland Department of Human Resources reported a lower figure of 338 adoptions in fiscal year 2009—a difference that DHR and BCDSS are in the process of reconciling.

Figure 4



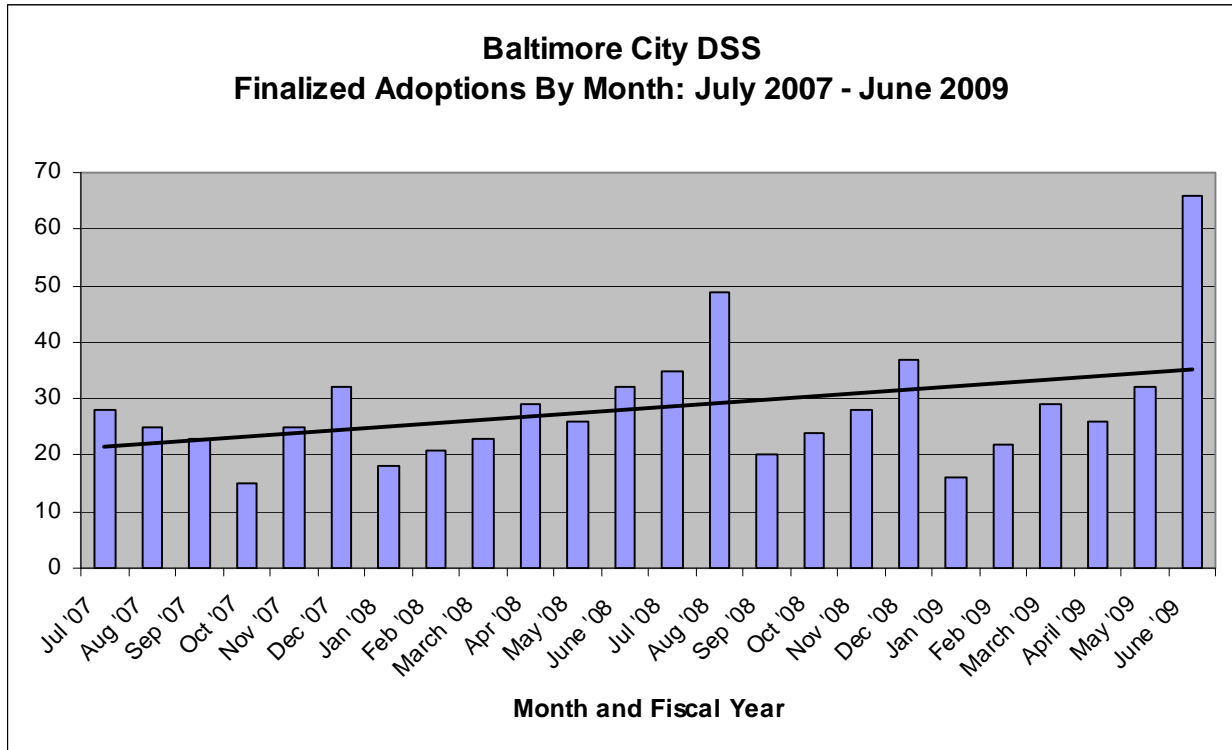
Sources:

(1) Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

(2) Maryland Department of Human Resources, StateStat: *Child Welfare Services Statistics, Recent*. July, 2009.

Maryland StateStat has tracked the monthly number of adoptions in Baltimore and the state's other 23 jurisdictions since October of 2007. According to this tracking, the monthly number of adoptions of Baltimore children trended upward through the end of fiscal year 2009 with a sizable jump in June 2009 (See Figure 5).

Figure 5

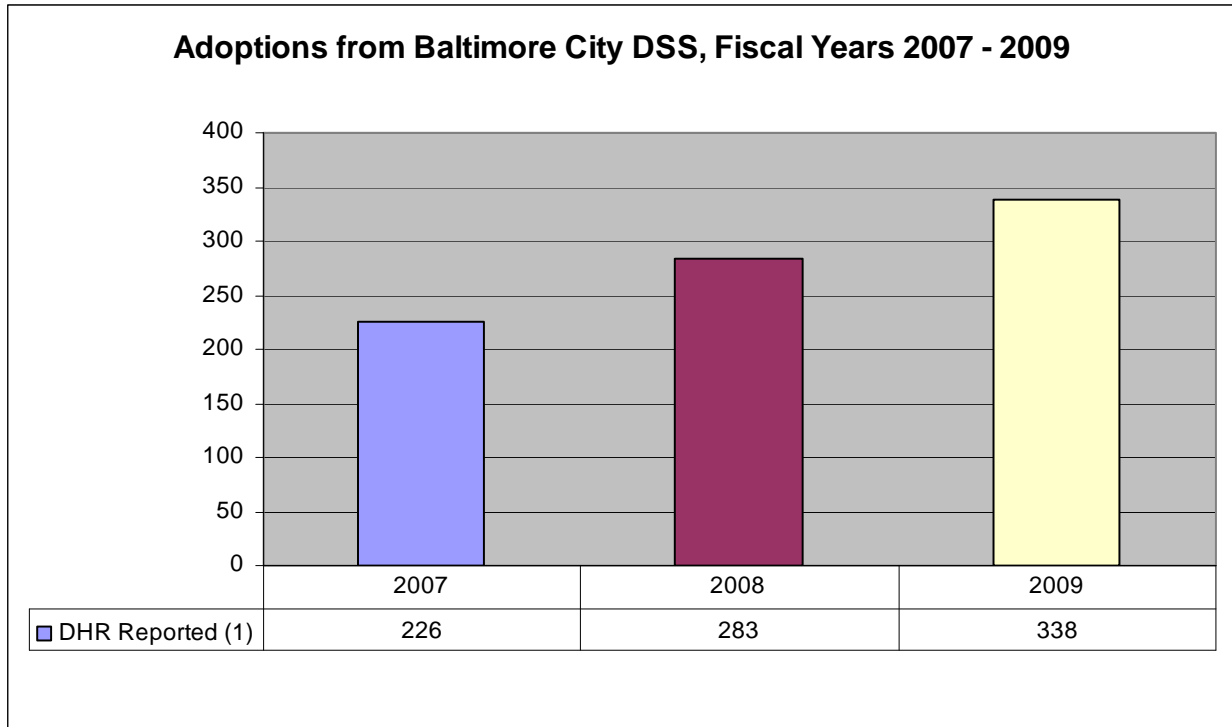


Source: Maryland Department of Human Resources, StateStat, *Child Welfare Services Statistics, Trends and Additional Trends*, July 2009.
Trend line fitted by author.

Annual Number of Children Adopted

Consistent with this upward trend and **Place Matters'** emphasis on permanency, the number of adoptions of children from Baltimore City BCDSS has increased steadily over the last two years. According to the DHR, 226 Baltimore City children had their adoptions finalized in 2007, 283 in fiscal year 2008, and 338 in fiscal year 2009 (See Figure 6).

Figure 6



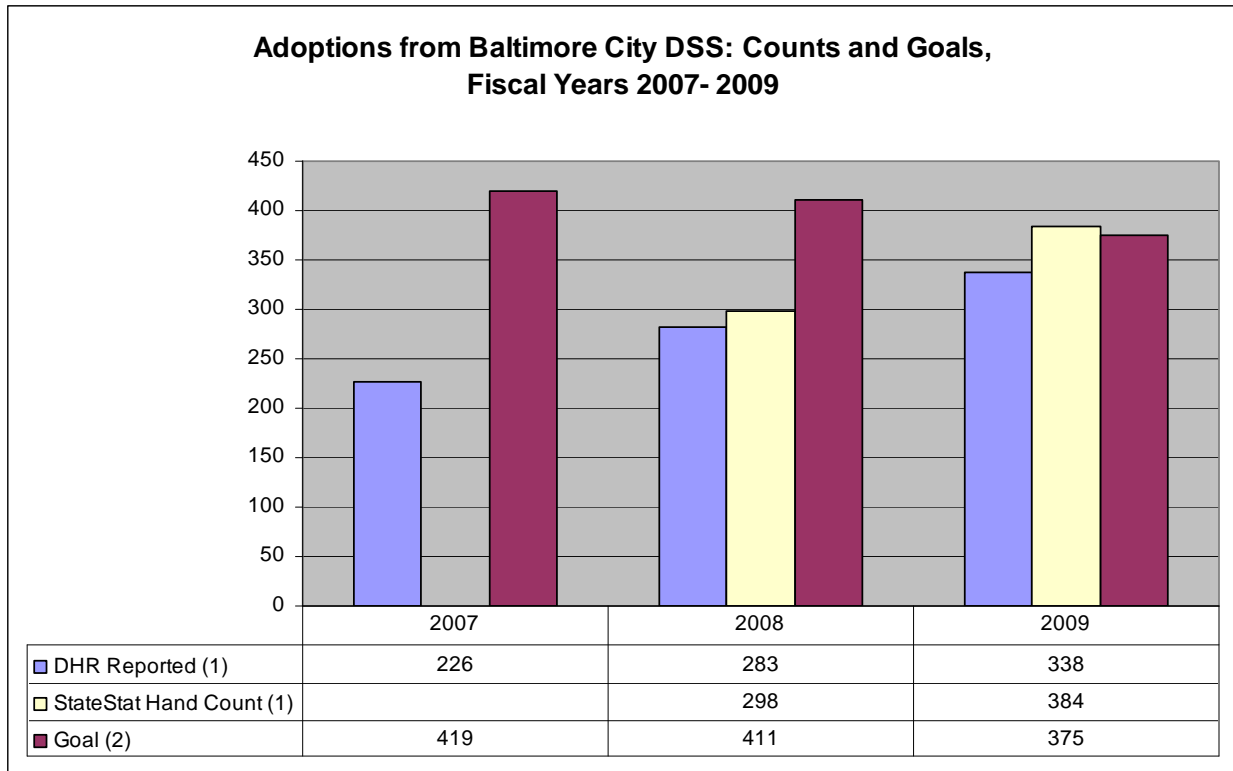
Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Baltimore City reported meeting its goal for adoptions in fiscal year 2009 for the first time since 2002—an accomplishment highlighted in the press¹⁵ and for which Baltimore City received special recognition from the Maryland Department of Human Resources. While this is a notable accomplishment, Baltimore’s adoption goal has dropped over time (the goal was 419 adoptions in 2007, 411 in 2008, and 375 in 2009). Data reported by StateStat also include an additional 46 adoptions above the number reported by the DHR.¹⁶

¹⁵“More kids have homes thanks to adoption agencies’ efforts: Baltimore one of state’s 24 jurisdictions to surpass its goal,” *The Baltimore Sun*, July 26, 2009.

¹⁶ Again, the DHR and BCDSS are in the process of reconciling these numbers and analysts report a variety of reasons why disparities may exist including the transfer of cases from the old data system to CHESSIE, delays in data entry, and problems with data quality and completeness.

Figure 7



Sources:

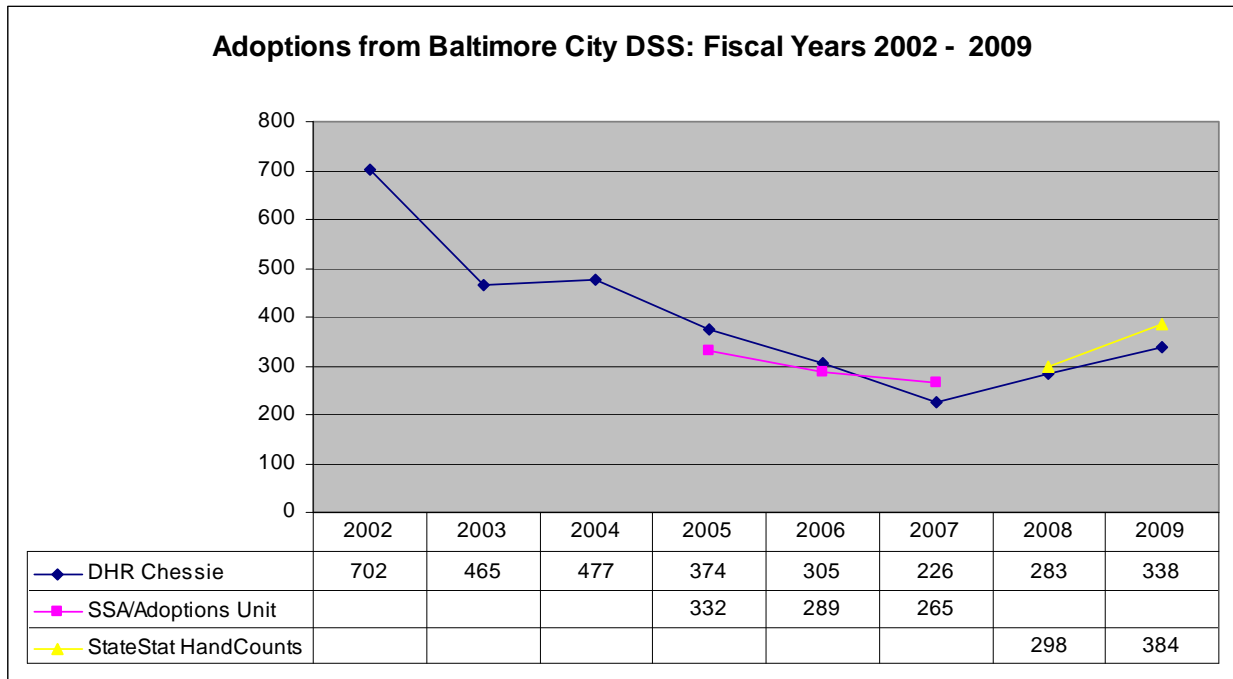
- (1) Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.
- (2) Maryland Department of Human Resources, *Finalized Adoptions for Fiscal Year 2005 – 2009*, February 20, 2009.

Year-to-Year Trends

Looking back in time, adoption counts continue to vary depending on the data source—due in part to the state’s transition to the Maryland Children’s Electronic Social Services Information Exchange System (MD CHESSIE) beginning in 2007,¹⁷ and to ongoing efforts to clean up and verify data collection methods and systems. Regardless of the source, over the last two fiscal years, numbers of adoptions *are* up (though there is some disagreement about how far). However, even with this progress, as noted in Figure 8, the number of children adopted in fiscal year 2009 (officially reported at 338) is less than half the number of Baltimore City children who were adopted from foster care in 2002 (702).

¹⁷ Development of Maryland’s CHESSIE system began in 1997, and it became operational in 2007. Because of the transition from the previous or legacy system to MD CHESSIE, trend data are not available from a single source.

Figure 8

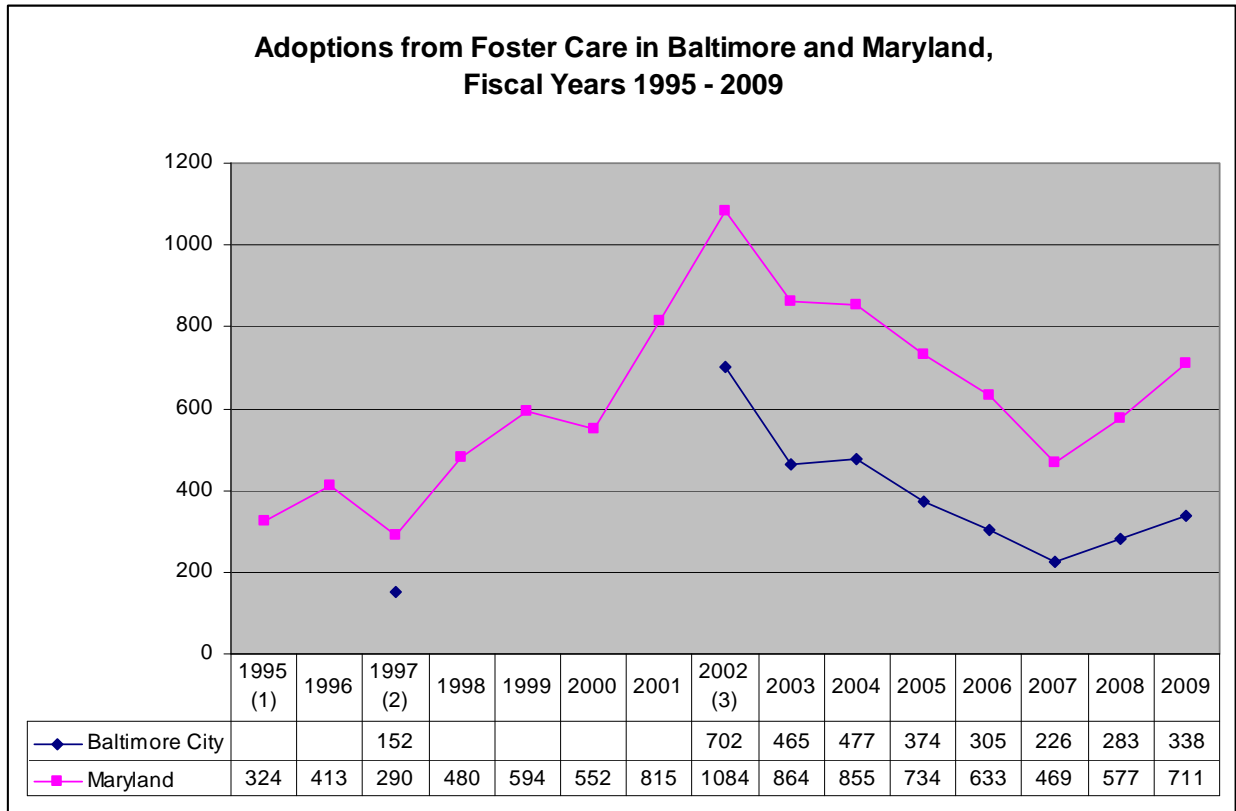


Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Figure 9 takes a longer look back at trends in adoption. From 1995-2002 the number of adoptions of Baltimore City children under the care of the BCDSS rose sharply—a result, it seems safe to say, of the Adoption and Safe Families Act and the concerted effort of staff within the BCDSS and DHR to take advantage of key provisions in this act (including adoption incentives). In interviews for this study, agency staff and leaders from this time period describe a priority focus on adoptions, an increased sense of competition among jurisdictions to meet their adoption goals, and special attention from then Governor Parris Glendening and his staff. Local and state actions were also fueled by two Maryland Task Force reports on Adoption—one in 1987 and one in 1995—and a study for The Abell Foundation urging additional attention and reforms that was completed in 1995.

From 2002-2007 the number of adoptions declined almost as sharply. Interviewees for this report surmise this was a reflection of the chaotic administration of both the BCDSS and DHR during this period. The BCDSS had three directors in five years, one of whom was unrecognized by the city's then Mayor Martin O'Malley, and not seated in cabinet meetings because of a dispute with then Governor Robert Ehrlich over his appointment and qualifications. Priorities within the DHR also shifted, key personnel changed positions or retired, and special adoption units within the DHR and BCDSS were dissolved and/or lost leadership.

Figure 9



Sources:

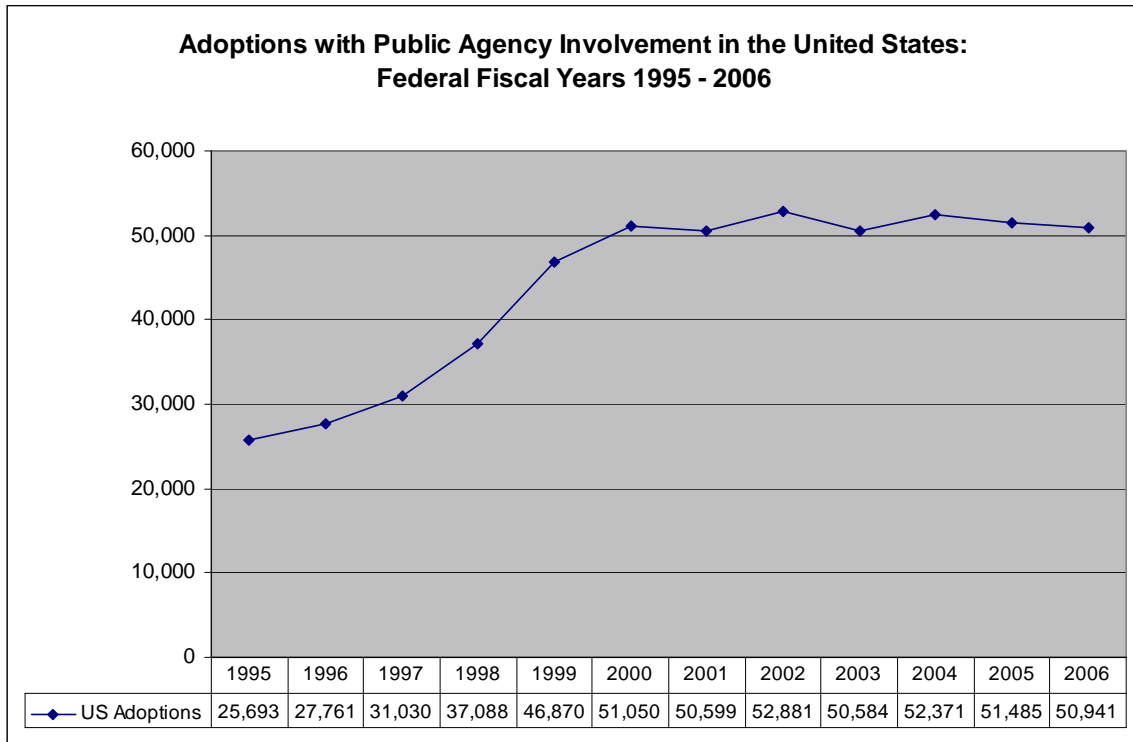
- (1) Maryland data for fiscal years 1995 - 2001 are from *Adoptions of Children with Public Agency Involvement, FY 1995 - FY 2006*, U.S. Department of Health and Human Services, Administration for Children and Families.
- (2) Baltimore data for fiscal year 1995 are from the *Baltimore City Department of Social Services Annual Report, 1997*.
- (3) Baltimore and Maryland data for fiscal years 2002 - 2009 are from Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Adoptions from Child Welfare in Baltimore City, Maryland, and the United States

In Figure 9, the trend line for adoption from foster care in the state of Maryland mirrors that of Baltimore City. The trend in the number of adoptions from public child welfare agencies across the country over the last two decades follows a noticeably different pattern (displayed in Figure 10). The national pattern begins with a rise similar to, but less steep than, what we see in Baltimore and Maryland, but then it plateaus from 2002 through 2006.

The rise in adoptions in Baltimore and Maryland from 1997-2002 did follow a steeper slope than the national trend—at a rate of change of +362 percent for Baltimore vs. a rate of change of +70 percent nationally—and as such, a steeper drop-off might be expected. Yet the overall difference in shape of these lines suggests that the up, down, slightly up pattern in Baltimore and in Maryland has *not* been driven by a larger national-policy context, but by state and local level priorities, policies and practices.

Figure 10

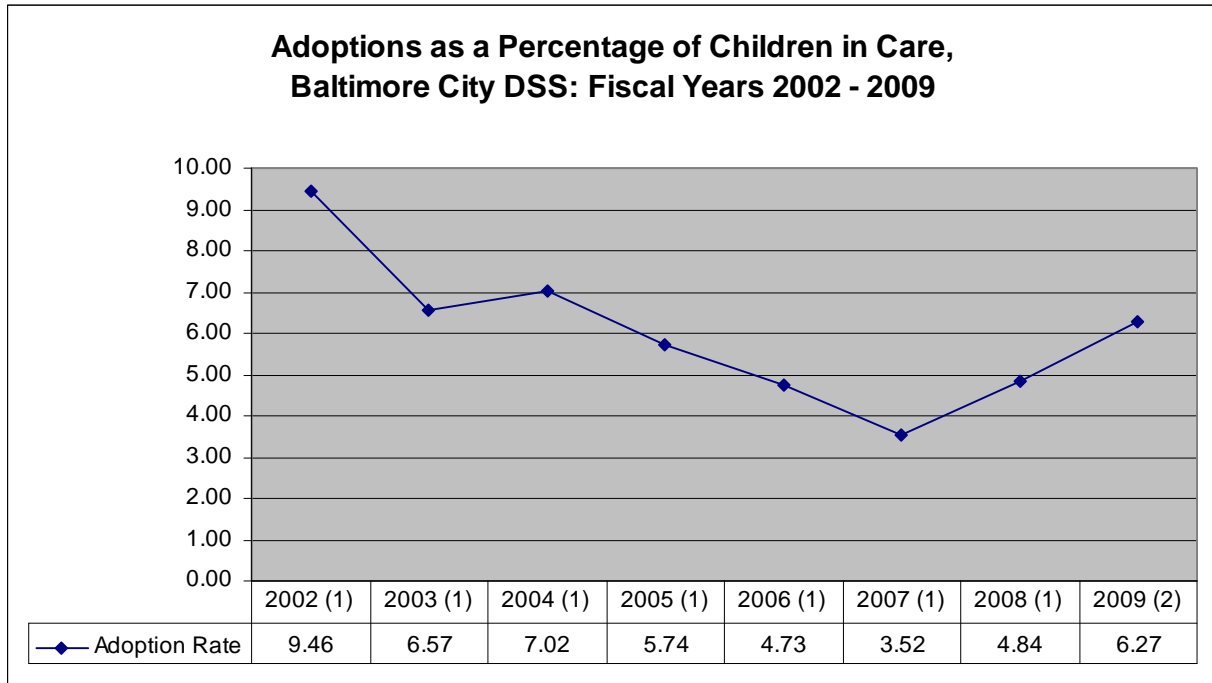


Source: U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Adoptions of Children with Public Child Welfare Agency Involvement By State, FY 1995 - FY 2006*.

Rate of Adoptions

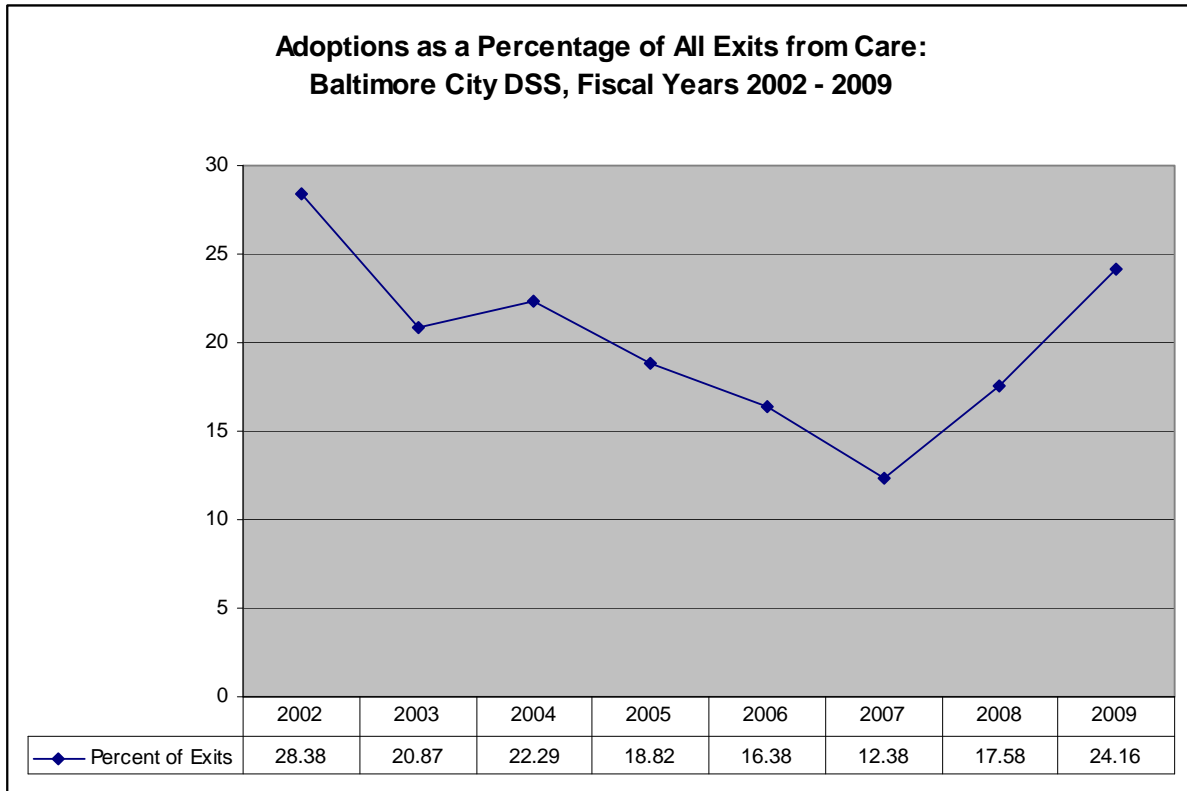
Because the number of Baltimore City children in foster care has also declined substantially over the last decade, there has been some question as to whether or not the declining pattern in adoptions would hold when examined as a rate of all children in care. Figure 11 examines adoptions as a percentage of all children in care, while Figure 12 displays adoptions as a percentage of all exits from care.

Figure 11



N.B: The rate calculated here by the author is the number of children whose adoptions were finalized in a given year as a percentage of all children in care for that year. For fiscal years 2002 – 2007, the denominator is an annual average of children in care calculated from year beginning and year end counts. For fiscal years 2008 and 2009, the denominator is the number of children in out-of-home placements as reported by the Maryland Department of Human Resources.

Figure 12



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Notably, when looked at as a rate rather than as an absolute number, the gains of the last two years are more pronounced – the trend lines in rates turn more steeply back up toward, but still do not quite reach, the 2002 high.

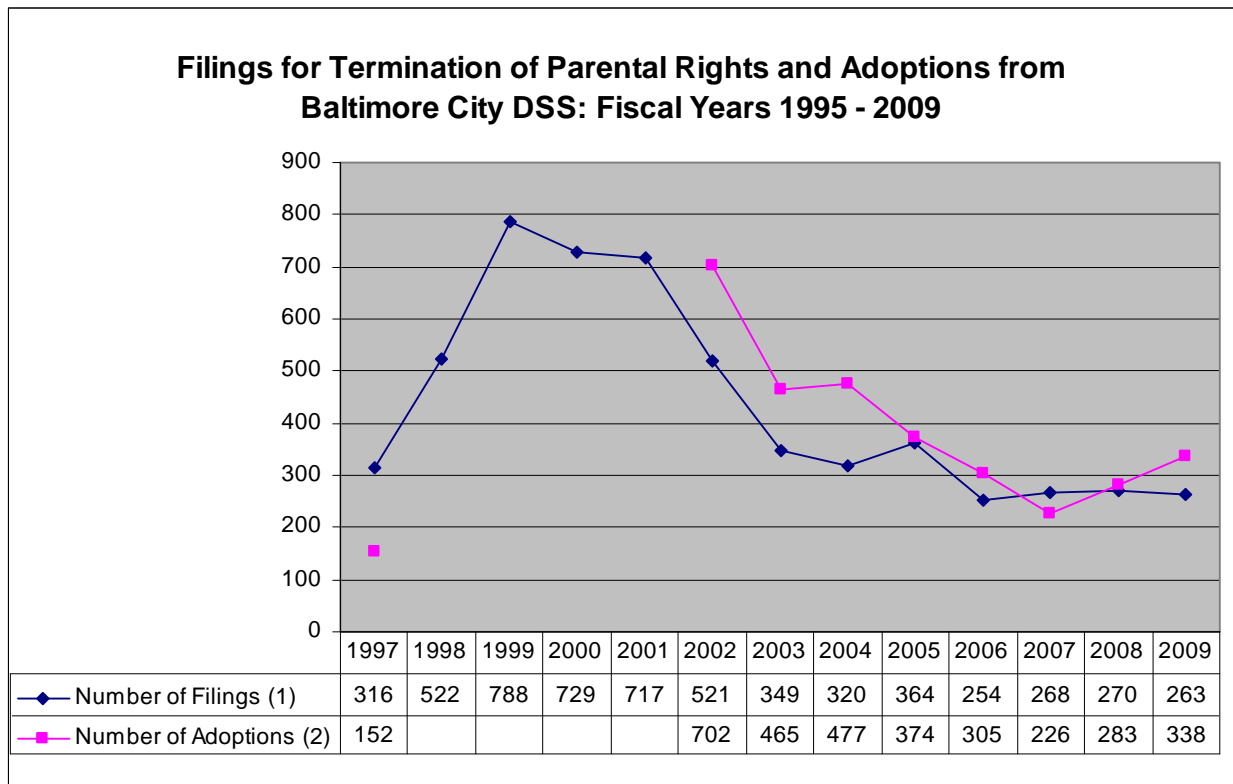
Looking Ahead on Adoptions

To examine whether or not this is a sustainable upward trend, we took a look at filings for Termination of Parental Rights (TPR) and at the stated permanency plan for children in foster care.

Filings for Termination of Parental Rights

In order for adoptions to proceed, the department must file a petition seeking that the rights of the custodial parent be terminated. As tracked by the Associate Administrator of the Juvenile Division of the City’s Circuit Court, TPR filings in Baltimore peaked in 1999 at 788 (a three-year lead before the peak in adoptions in 2002). They have hovered at considerably less than half that number – around 270 – for the last three fiscal years (at 268 in fiscal year ‘07, 270 in fiscal year ‘08, and 263 in fiscal year ‘09). While relatively more children are being adopted in recent years, it does not appear that significantly more children are being made legally free for adoption.

Figure 13



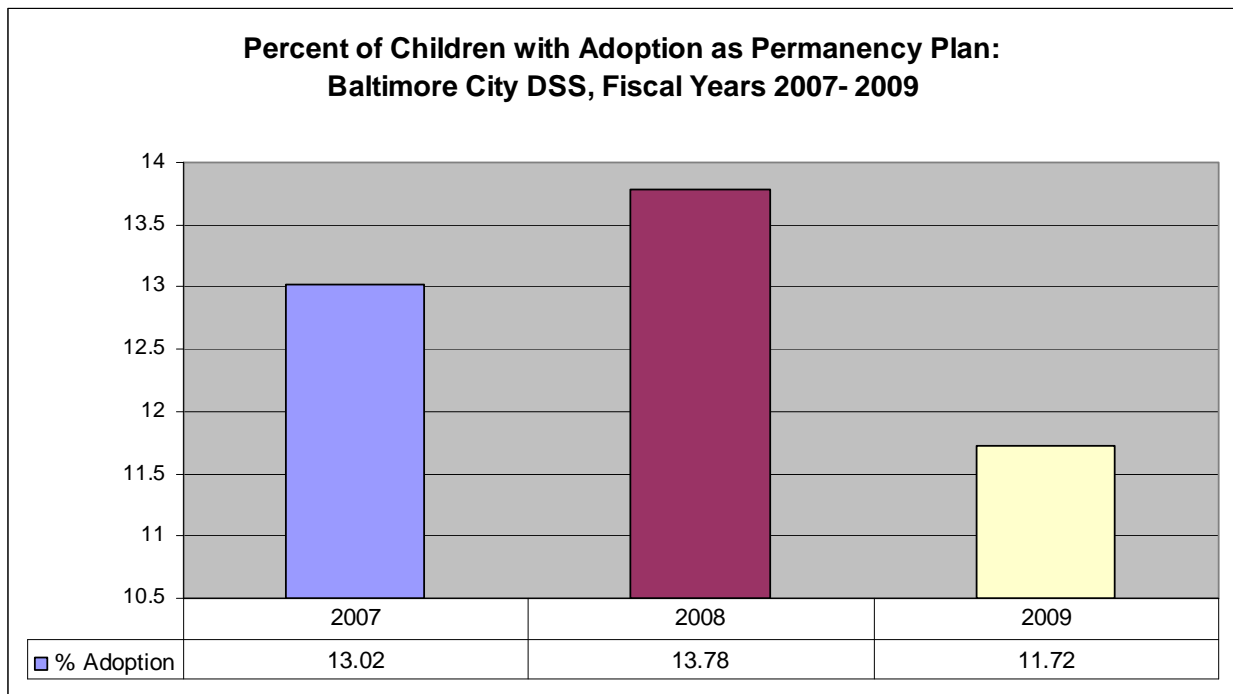
Source(s):

- (1) Summary of TPR Filings for Fiscal Years 1997 -2009, Circuit Court of Baltimore City, Juvenile Division.
- (2) Data for 1997 are from the *Baltimore City Department of Social Services Annual Report, 1997*; data for 2002-2009 are from Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Adoption as a Permanency Plan

Another way to think about how likely the current rate of adoptions is to be sustained (or to grow) is to look at how the BCDSS is planning for permanent homes for the children under its care. The graph below displays the percentage of Baltimore City children in foster care whose primary permanency plan is adoption as a percentage of children in care over the last three fiscal years. Though the change is small, note that the percentage of children with adoption as their primary permanency plan declines slightly over the period.

Figure 14



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

It does not yet appear that practice changes in either permanency planning or the termination of parental rights have caught up with the **Place Matters** imperative to increase adoptions. Absent changes on the part of the BCDSS in the identification of children who might be eligible for, and benefit from, adoptions, we might well expect adoptions to level off in the coming years.

It is worth noting, however, that over the course of fiscal year 2009, according to Maryland StateStat, a monthly average of 411 children were legally free for adoption but still waiting within the system for an adoptive home. Even as pipeline issues are being

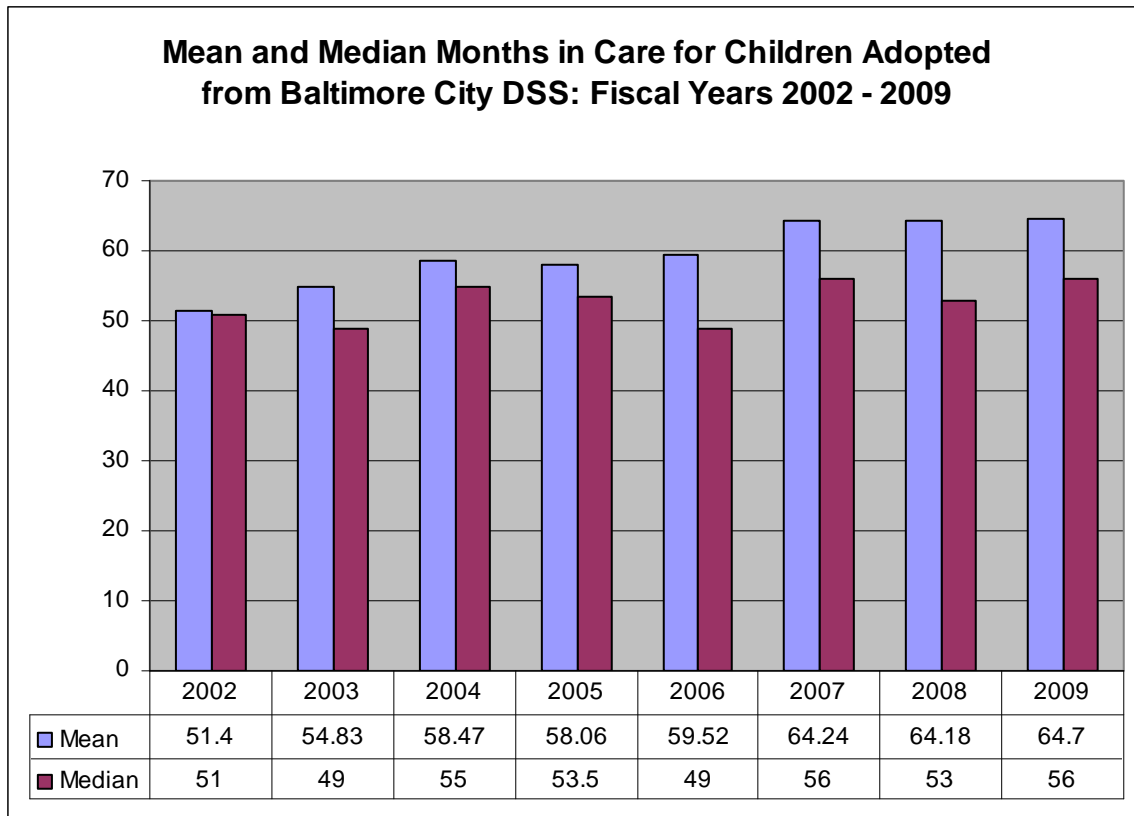
addressed, there remains a considerable backlog of children whose parents' rights have been terminated, but who have yet to find a permanent adoptive home.

Pace of Adoptions

Given the need for stability and permanence in a child's life, another important measure of action on adoptions is the time children remain in care from their removal from families of origin to a finalized adoption.

The *median time* in care for a Baltimore City child whose adoption was finalized in 2009 was 56 months. Almost five years had passed from the median time children were removed from their birth families to the time they were adopted. The *average time* in care for a child adopted in 2009 was almost 65 months—close to five and a half years.

Figure 15



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

As noted in Figure 15, the amount of time Baltimore City children spend in care before their adoptions are finalized is increasing. When considered in conjunction with the data on TPR filings and primary permanency plan designations, this could be an indication that over the last two years, Baltimore City has been working itself through an adoption backlog, moving forward on cases that have been pending in the system for

some time—and thus providing a partial explanation for longer lengths of stay (and perhaps a declining percentage of children with adoption as a permanency plan).

This is a possible confound noted in the literature on measuring performance in child welfare:

*Policy and programmatic changes intended to reduce a backlog of cases that have been in foster care for a long time can actually increase the length of time to reunification or adoption among discharge cohorts. This occurs because the cohorts exiting foster care after this programmatic shift takes place will contain a higher concentration of children who have stayed in foster care a long time.*¹⁸

All this is to say that while the department is in the midst of improving its performance, it could actually appear that its performance on the critical measure of time to adoption has gotten worse.

Comparative Data on Time to Adoption

Whatever the explanation, the amount of time Baltimore City children spend in care before their adoptions are finalized is considerably longer than national medians, goals, and the experience of children in other similar jurisdictions. It is as long as the average time pending before adoption finalization in Baltimore City in 1995—prior to the passage of the ASFA—which was also 65 months.¹⁹

Available Comparisons

Because it has dedicated resources and time to building a transparent, publicly available data system tracking child welfare performance across the state, California provides a ready source of comparison data at the jurisdictional/county level. No county in California has a longer median time to adoption than does Baltimore City.²⁰ Indeed, the median time to adoption in 2008 in Los Angeles County, California—the jurisdiction ranked just below ours on a recognized Scale of Social Deprivation calculated using 2000 census data²¹—was 33.1 months (2.75 years). The median time to adoption in Alameda

¹⁸ Fred Wulczyn, et al., “Adoption Dynamics and the Adoptions and Safe Families Act,” *Social Services Review*, 2006; 80(4).

¹⁹ Millemann, 21.

²⁰ California child welfare data by jurisdiction are publicly available in an interactive search format at the University of California/ Berkeley’s Child Welfare Dynamic Report System, accessed at http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx.

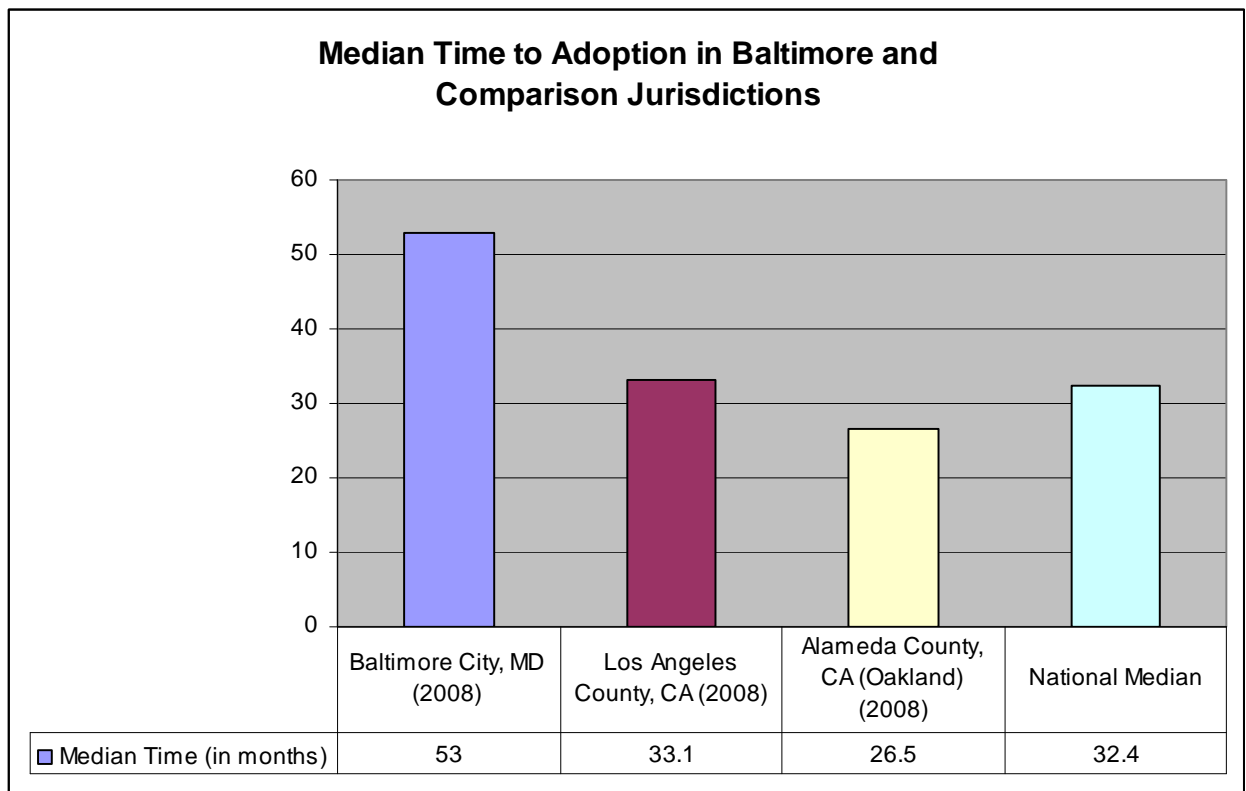
²¹ For a ranking of the nation’s largest cities on an index of Social Deprivation that contains the poverty rate, the percent of the population 25 and over without a high school diploma, unemployment rate, percent of population 5 and over with limited English proficiency, per capita income, and the violent crime rate, see “The Social and Health Landscape of Urban and Suburban America,” produced by SUNY Downstate Medical Center; accessed at http://www.downstate.edu/urbansoc_healthdata/Urban%20Center%20Website/web%20design2/Reportnew.htm.

County, which encompasses the city of Oakland (and to which Baltimore is sometimes compared based on size and location within a major metropolitan region), was 26.5 months.

North Carolina, too, tracks jurisdictional child welfare data through the auspices of the Jordan Institute at the School of Social Work at the University of North Carolina at Chapel Hill. Using quarter 3 data from 2008, the median time to adoption in North Carolina’s largest counties was 29.4 months. The median time across the state was 30.25 months.²²

Even at its shortest length over the last seven years (49 months in 2006), the median time to adoption in Baltimore far exceeds the national median for all states (at 32.4 months). Maryland’s own current median time to adoption is 10 months longer than the national median.²³ (See Figures 16 and 17.)

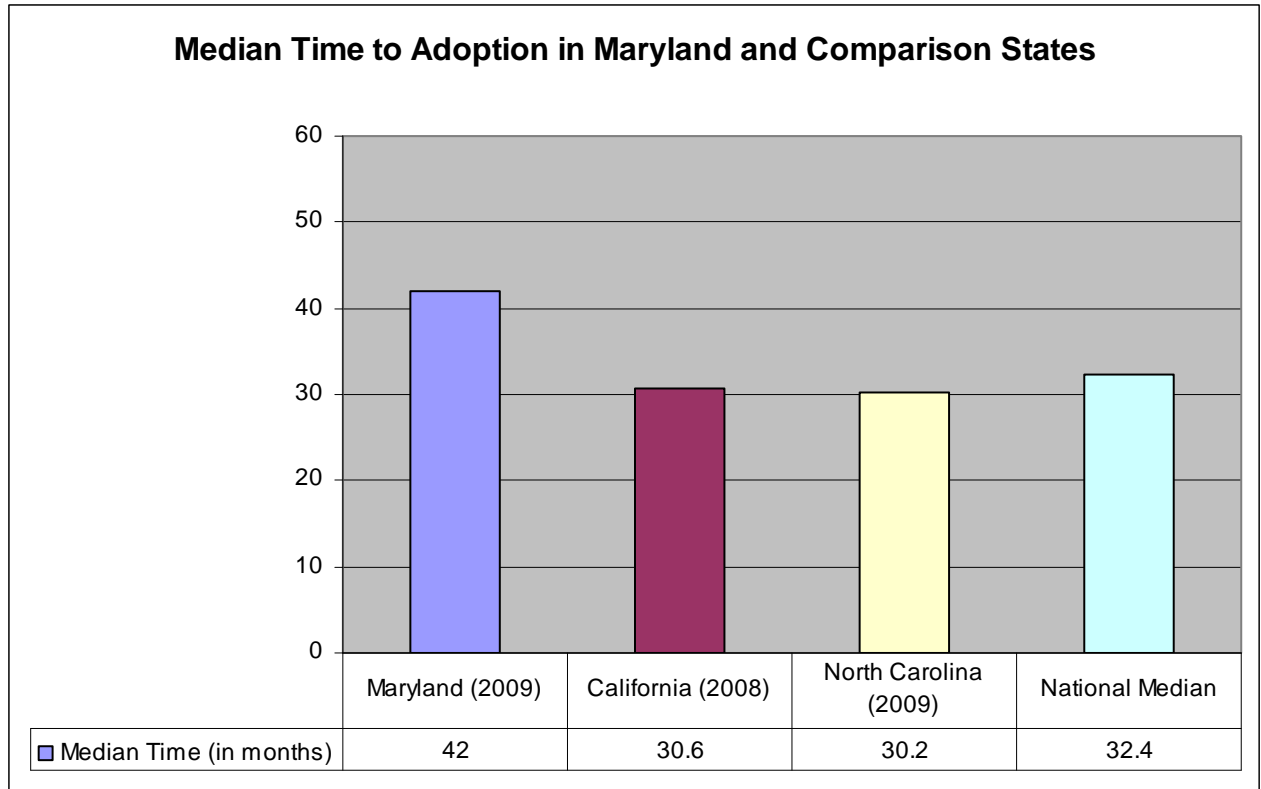
Figure 16



²² Jordan Family Institute/University of North Carolina School of Social Work, “Permanency Composite Measure C2-2 for North Carolina,” accessed at <http://sasweb.unc.edu>.

²³ National median found at U.S. Department of Health and Human Services, Administration for Children and Families, Data Indicators for the Child and Family Service Review, accessed at http://www.acf.hhs.gov/programs/cb/cwmonitoring/data_indicators.htm.

Figure 17



Sources:

National median found at U.S. Department of Health and Human Services, Administration for Children and Families, Data Indicators for the Child and Family Service Review, accessed at http://www.acf.hhs.gov/programs/cb/cwmonitoring/data_indicators.htm.

California data are from the Center for Social Services Research, University of California at Berkeley, accessed at http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx.

North Carolina data are from Jordan Family Institute, School of Social Work, University of North Carolina, accessed at <http://sasweb.unc.edu>.

Maryland data are from Maryland Department of Human Resources, *Select Child Welfare Performance Indicators Prepared for The Abell Foundation*, October, 2009.

National Standards

Beginning in 2000, administrative data reported through AFCARS have been used to assess states’ performance on seven outcome measures tracked by the CFSR. Each of these outcome measures has a number of constituent indicators—data that are combined to create a scaled composite score for each state on each outcome. States underwent an initial review during the period 2000-2004. They are currently in the process of a second review. Maryland recently received the results of this second review.²⁴

²⁴ Brenda Donald, “Letter to Stakeholders of the CFSR Program Improvement Plan,” Maryland Department of Human Resources, October 2009.

With the recognition that Baltimore City numbers drive state trends, as reported in the current CFSR review and noted in Table 1, Maryland falls below the national median and fails to meet national standards on the following composite permanency measures: Timeliness and Permanency of Reunifications, Timeliness of Adoptions, and Achieving Permanency for Children in Foster Care for Long Periods of Time. While few states meet national standards on all the outcome measures contained in the CFSR, Maryland’s performance on these composite measures is considerably below not just national standards, but national medians as well—placing Maryland in the bottom tier of states with regard to performance on permanency outcomes for children in foster care.

Table 1. Maryland’s Performance on Child and Family Service Review (CFSR) Permanency Composite Measures in Comparison to National Ranges, Medians, and Standards

Measure	National Range	National Median	National Standard	Maryland Performance
Permanency Composite 1: Timeliness and Permanency of Reunifications	50 - 150	113.7	122.6	83.9
Permanency Composite 2: Timeliness of Adoptions	50 – 150	95.3	106.4	78.9
Permanency Composite 3: Achieving Permanency for Children in Foster Care for Long Periods of Time	50 – 150	112.7	121.7 or higher	96.9

Source: National ranges, medians, and standards are from U.S. Department of Health and Human Services, Administration for Children and Families, Data Indicators for the Child and Family Service Review; Maryland’s current status on these composite measures is as reported in Maryland Department of Human Resources, *Child and Family Services Review, Program Improvement Plan Kick-off*, PowerPoint presentation, October 8, 2009.

Table 2 offers a look at the most recent publicly available data on constituent indicators for the Timeliness of Adoption composite measured by the CFSR. Because these come from several different sources across several different years, absolute comparisons are not possible. Nevertheless, one can get a sense of the degree to which Maryland is off the national mark—and some indication of why this may be the case. For example, less than 3 percent (2.6 percent) of Maryland children who were adopted in 2008 had their adoptions finalized within 17 months of entry into care; the national median for this measure is 20 percent of adopted children.

Table 2. Maryland's Performance on Select Indicators in the CFSR Permanency Composite Measure on Timeliness of Adoption in Comparison to National Ranges and Medians

Measure	National Range	National Median	National Standard	Maryland Performance
Permanency Composite 2: Timeliness of Adoptions (47 states)	50 – 150	95.3	106.4	78.9 (1)
Measure C2.1. Percent of children exiting to adoption that did so within 24 months of entry into out-of-home care (50 states and DC)	6.4 – 74.9	26.8	None	19.5 (2)
Measure C2.2. Median length of stay in months from the date of latest removal from home to discharge to adoption (50 states and DC)	16.2 -55.7	32.4	None	42 (3)
Measure C2.3. Percent of children in out-of-home care for 17 continuous months who had a finalized adoption by the end of the fiscal year (50 states and DC)	2.4 – 26.2	20.2	None	2.6 (4)

National ranges, medians, and standards are from U.S. Department of Health and Human Services, Administration for Children and Families, Data Indicators for the Child and Family Service Review. Sources for data for Maryland are:

- (1) Maryland Department of Human Resources, *Child and Family Services Review, Program Improvement Plan Kick-off*, PowerPoint presentation, October 8, 2009.
- (2) Maryland Department of Human Resources, StateStat, *Place Matters Performance Measures*, Quarter 2, 2009.
- (3) Maryland Department of Human Resources for The Abell Foundation, October, 2009.
- (4) School of Social Work, University of Maryland, *Maryland Child Welfare Performance Indicators*, 2008.

When states fail to meet CFSR standards, they are required to submit a Performance Improvement Plan (PIP). If performance does not improve within the next review period, federal financial sanctions may be applied. The process for preparing Maryland's second PIP review is currently under way. Maryland's Secretary of Human Resources, Brenda Donald, has convened several working groups to prepare Maryland's next PIP. Encouragingly, improving time to permanency is an important focus of this effort.²⁵

Permanent Legal Guardianships

Because policy and practice in the years since the passage of the ASFA has been largely focused on adoption as the preferred permanency option when reunification is not possible—and is just now catching up to include permanent legal guardianship—it is not surprising that much less data are available to describe the number, rate, and pace at which Baltimore City children find permanent homes with legal guardians.

Data we do have, which was produced by the DHR for this analysis, contain two categories of exit to permanent legal guardians: children placed with relatives (in a category labeled "Live with Other Relatives") and children placed with permanent

²⁵ Ibid.

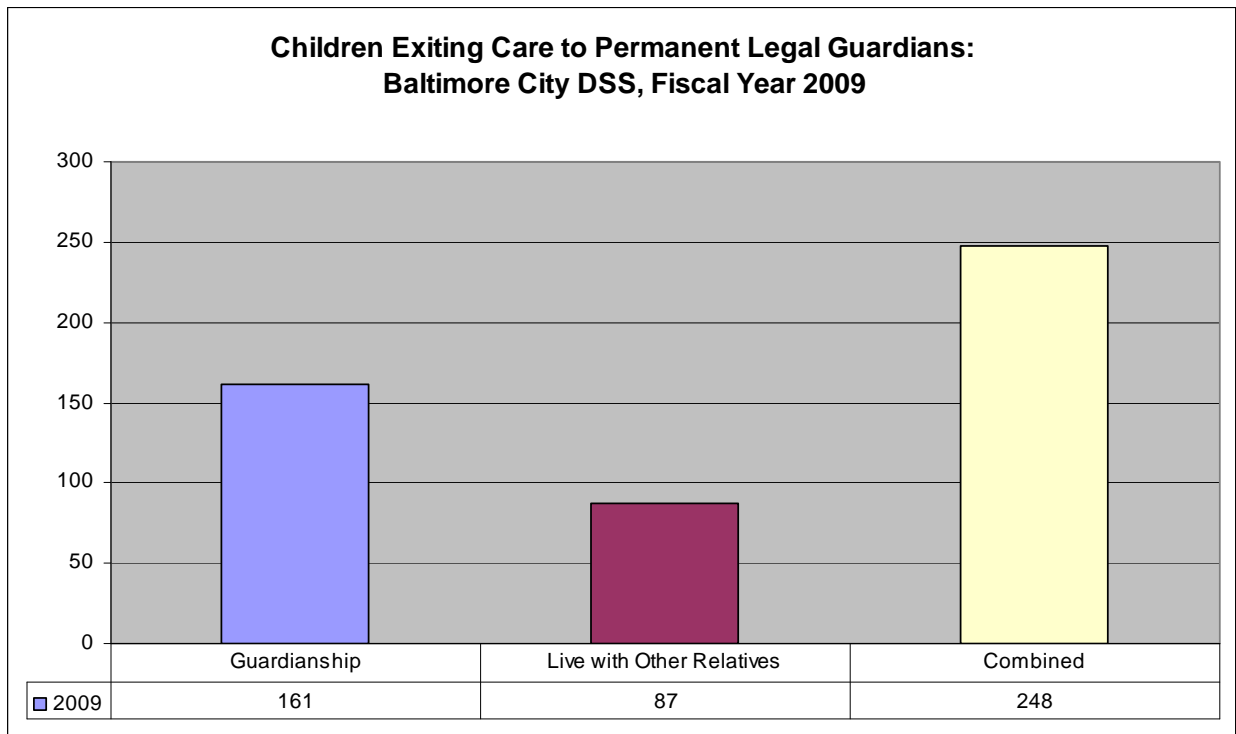
guardians, who may also be relatives (in a category labeled “Guardianship”). These distinctions appear to be related to variability in the current system for collecting and inputting data into CHESSIE, and we are cautioned not to read too much into them. While in the initial graphs below we break out these categories for the reader, it is the combination of these two categories that the DHR recommends we use to best understand the current status.

Guardianship Snapshot

In fiscal year 2009, a total of 248 Baltimore City children who had been in foster care exited care to permanent legal guardians:

- 161 to ‘Guardianship;’ and
- 87 to ‘Live with Other Relatives.’

Figure 18

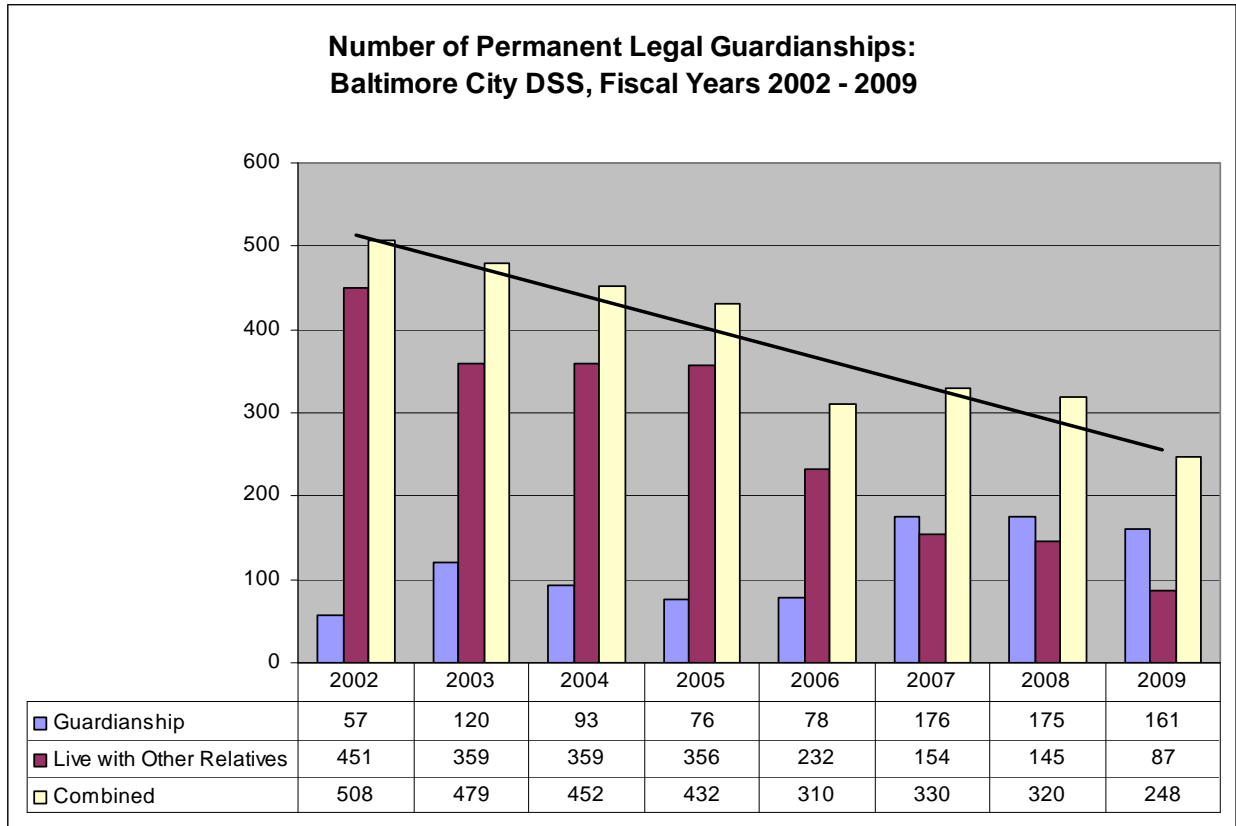


Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Annual Number of Permanent Legal Guardians

The number of Baltimore City children who are placed with permanent legal guardians has been declining over the last decade.

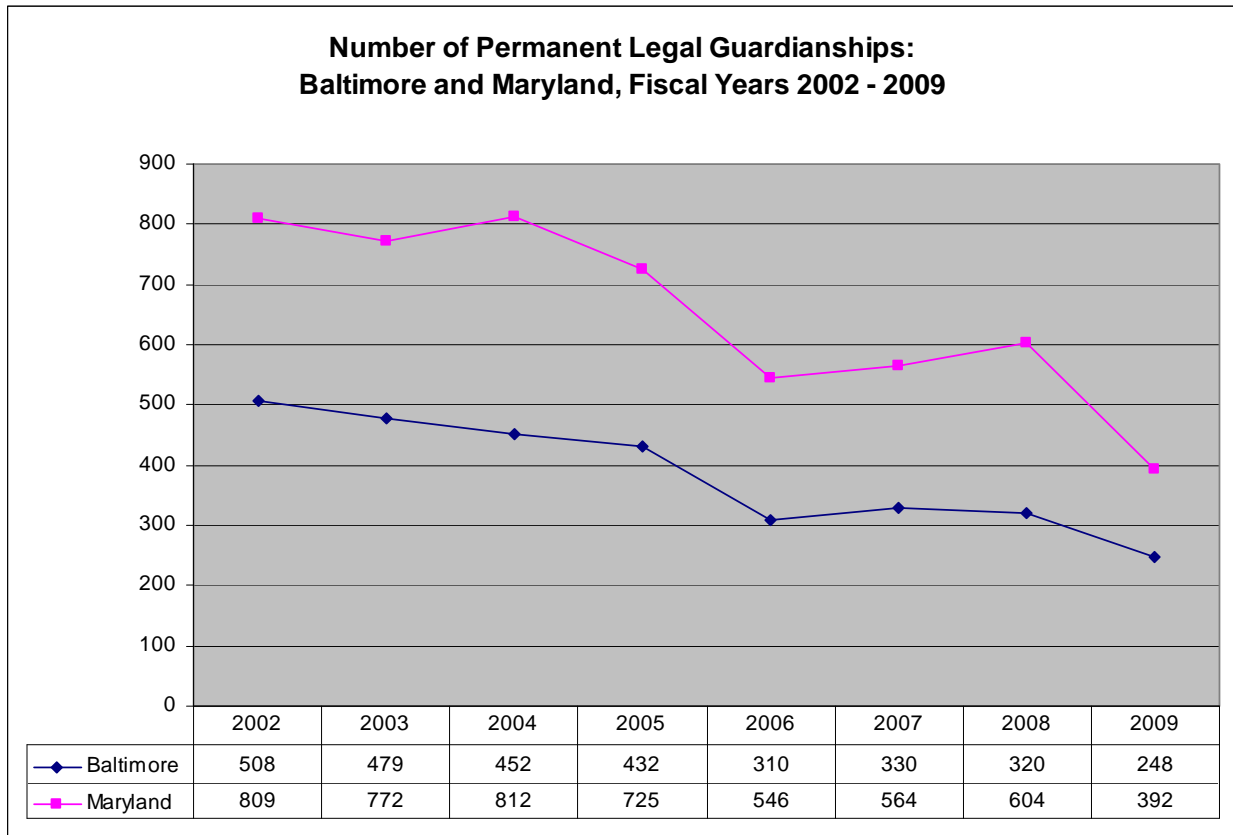
Figure 19



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.
Trend line fitted by author.

This pattern of decline is evident in the number of Baltimore City children who find permanent homes with legal guardians and for children across the state as a whole (See Figure 20).

Figure 20



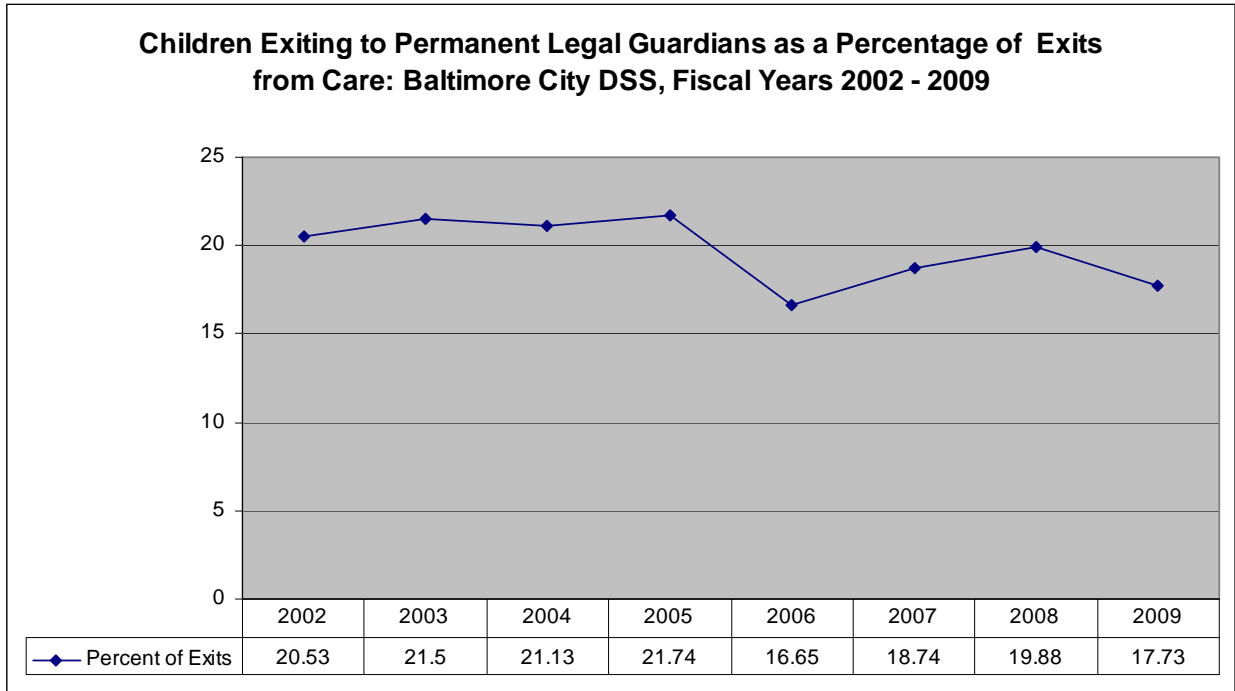
Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

In 2002, 508 Baltimore City children found permanent homes with legal guardians. In 2009, less than half that number (248) did. Correspondingly, the 2009 number of guardianships conferred in Maryland (at 392) is less than half of those conferred in 2002 (at 809). Unlike the rising pattern in adoptions, in fiscal year 2009, the number of guardianships conferred in both Baltimore and across the state is less than it was in the fiscal year immediately preceding (2008).

Guardianship Rate

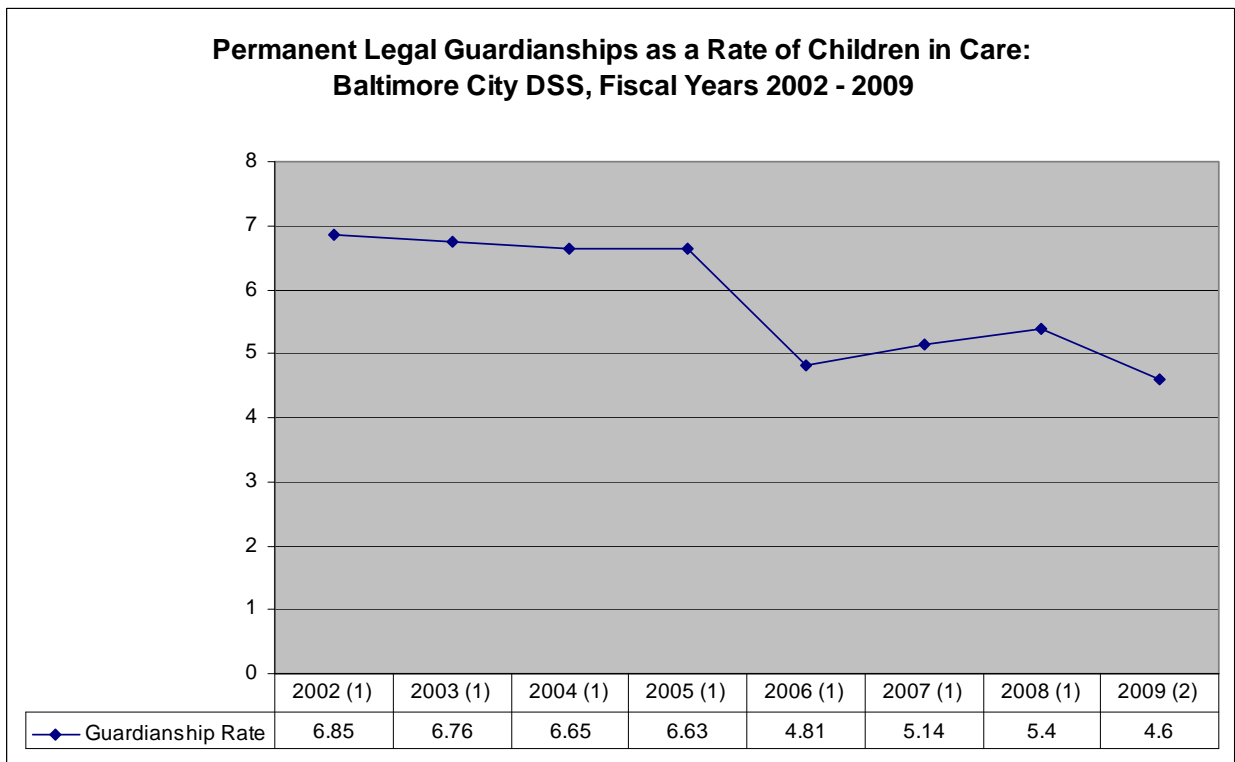
Declines in legal guardianships hold when we examine guardianship as a rate of all exits to permanency AND as an overall rate of the total number of children in care (See Figures 21 and 22).

Figure 21



Source: Maryland Department of Human Resources for The Abell Foundation, October 15, 2009.

Figure 22



The rate calculated here is the number of total guardianships in a given year as a percentage of all children in care for that year. For fiscal years 2002–2007, the denominator is an annual average of children in care calculated from year beginning and year end counts. For fiscal years 2008 and 2009, the denominator is the

number of children in out-of-home placements as reported by the Maryland Department of Human Resources.

Maybe some good news?

While the DHR has indicated that there may be no difference between the “guardianship” and “living with other relatives” categories, others suggest that the distinctions may arise from different understandings on the part of those entering the data and managing the cases.

- *The category ‘guardianship’ might be understood to refer to permanency placements where the legal guardian receives a guardianship subsidy. Such subsidies were made possible first through Maryland’s receipt of a five-year IV-E waiver in 1997, and then through state legislative action in 2006 in which the use of Maryland General Funds was authorized to expand and sustain the IV-E waiver program. Guardianship subsidies are currently available to 500 families across Maryland—200 from the initial IV-E waiver/ demonstration project and an additional 300 families from the state-only subsidy.²⁶ (In order to be eligible for the subsidy, the family must first complete a comprehensive home study.)*
- *The category ‘other relative’ might be understood to refer to permanency placements where legal custody has been granted to a relative, but this relative does not qualify and/or is not receiving the guardianship subsidy. Families may fall into this category for a number of reasons:*
 - They may not have completed a home study, and are therefore ineligible for the guardianship subsidy;
 - The child in consideration may not have been eligible for federal IV-E support, making his/her guardian ineligible for the subsidy; and/or
 - The family may not have been made aware of its options.

While these families may not be receiving the state/IV-E guardianship subsidy, they may be receiving a payment under the Temporary Assistance for Needy Families (TANF) program for the child in their care.

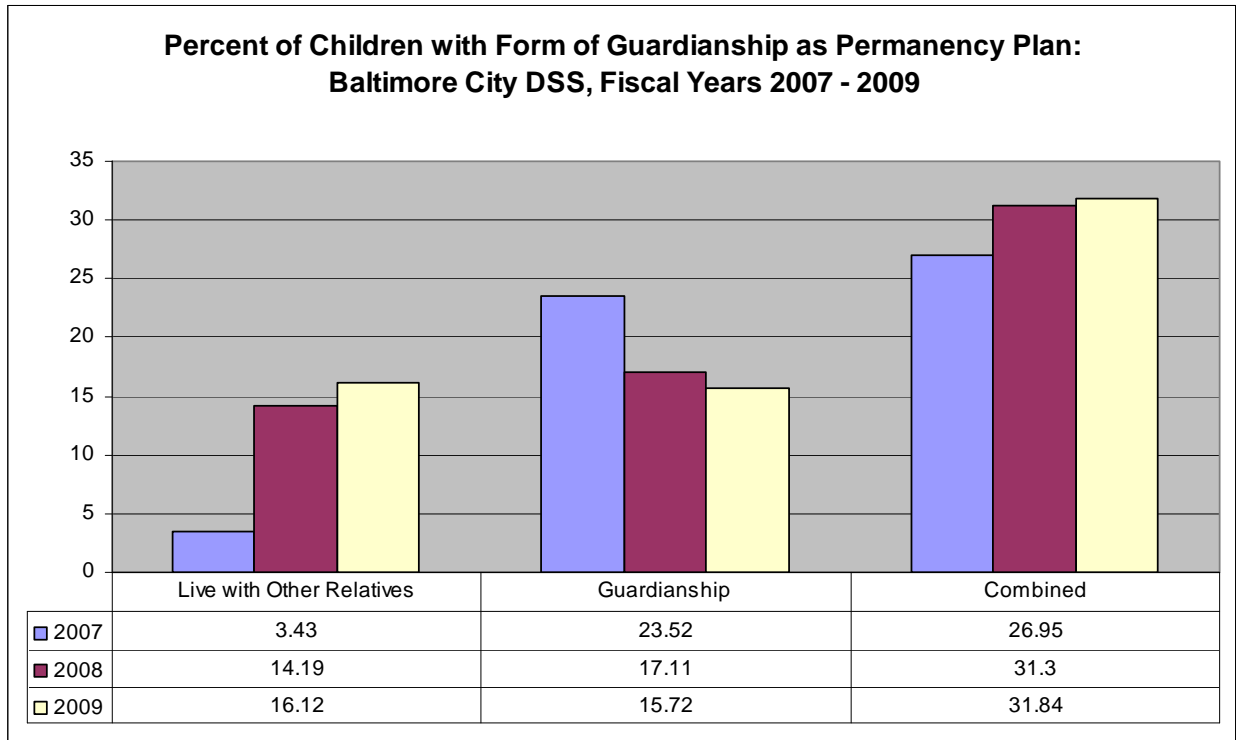
If these distinctions hold, some good news may be hidden in the data. As noted in Figure 19 above, while there has been an overall reduction in the annual number of children exiting to permanent legal guardians in Baltimore City, more exits have been classified as exits to ‘guardianship’ in recent years, indicating—again this is anecdotal—that more families are perhaps receiving guardianship subsidies than have been in recent years.

²⁶ Background on Maryland’s use of guardianship subsidies from the North American Council on Adoptable Children (NACAC), Maryland State Information, accessed at: <http://www.nacac.org/adoptionssubsidy/stateprofiles/maryland.html>.

Looking Ahead on Permanent Legal Guardianships

Some more good news might also come from taking a quick look at how children are moving through the system. Despite the downward trend in the overall number and rate of guardianships for Baltimore City children in foster care, the number of children with a permanency plan of guardianship appears to be increasing, however slightly, indicating that perhaps more children will find permanent homes through guardianship in the years to come.

Figure 23



So What Can We Say about the Current Status of Baltimore City Children with Respect to Adoptions and Guardianships?

Available data give a mixed picture of the status of Baltimore City children under the care of the Department of Social Services with respect to adoptions and permanent legal guardianships.

On the one hand, it appears as if stabilized leadership at the city and state levels and the ongoing implementation of the Place Matters Initiative are beginning to have some effect on the number and rate of Baltimore City children who find permanent homes through adoption. More families *may* be receiving guardianship subsidies for the children in their care.

As one interviewee told us:

“There is no question that there is a significant improvement. More children are being adopted... and there has been increased access to and use of Custody and Guardianship subsidies.”

On the other hand, as both an absolute number and as a rate, fewer children are adopted from the BCDSS than were adopted seven years ago. The median time to adoption in Baltimore City is considerably longer than in jurisdictions that share its demographic and social characteristics (and for which comparisons are available). Fewer children—again as both a number and as a rate—are finding permanent homes with legal guardians than they were in 2002. With Baltimore as its driver, Maryland falls below the national median on each of the permanency measures tracked in the Maryland Child Welfare Accountability Report. The state’s child welfare system is under federal review for its failure to meet key permanency benchmarks tracked by the CFSR.

III. What Barriers to Timely Adoptions and Permanent Legal Guardianships Have Surfaced?

Based on preliminary discussions, at the outset of this study we expected that barriers to successful adoption and guardianship for children from foster care in Baltimore City would likely fall into three general categories:

- The characteristics of children slated for adoption (including their age, the number of transitions they have experienced, and emotional and behavioral disturbances related to the trauma of removal from their homes and subsequent moves within foster care);
- An agency in transition whose previous practices and institutional culture had viewed foster care as an appropriate long-term placement for Baltimore City children; and
- Court practices and resource constraints that contribute to the time children spend in limbo.

Child Characteristics

Studies using national data on adoptions and guardianships of children from child welfare agencies have noted that children who are actually adopted differ from children waiting to be adopted (read legally free for adoption) and/or children who are placed with permanent legal guardians on several key characteristics:

- In an analysis completed using data from 2000, adopted children tended to be younger (with an average age of 6.9 years) than waiting children (who were an average age of 8.1 years old); and
- Adopted children are less likely to be minority children or members of sibling groups than waiting children or children who are placed with legal guardians.²⁷

This is not to say that possible adoptive homes for older and minority children do not exist—indeed they do—just that when calculating the likelihood of adoption, older and minority children and children who are members of a sibling group fare less well.

New research, however, has questioned the degree to which differences in probabilities of adoption are related to the characteristics of children (and hence the preferences of adoptive parents) or to something else. Jeff Katz, founder of the Listening to Families Project, wrote in the op-ed section of *The Washington Post*²⁸ that—according to recent analysis of the National Survey of Family Growth conducted by the National Center on Health Statistics—the supposed mismatch between the characteristics of children available for adoption through public child welfare agencies and the preferences and interests of potential adoptive parents is largely fiction. His conclusion: A number of potential parents are, in fact, willing to adopt children with the characteristics of children in foster care. It is not the preferences of parents, he states, but the practices of child welfare agencies, that limit this real possibility. The Katz research cites agency practices that tend to push potential adoptive families away by being overly officious at the start. Other research notes that agencies had previously viewed some, especially older and disabled children, as un-adoptable when this—especially as relatives have become the fastest growing category of adoptive parents—has proven not to be the case.²⁹

While interviewees for this study had little to say on the relationship between the characteristics of children in care and the contribution of these characteristics to the likelihood of their adoption and/or residence with a permanent guardian—other than to make the obvious and important point that child characteristics become more of a problem the longer kids stay in care—they did have much to say on the practices and performance of the Baltimore City Department of Social Services.

Agency Practices

To a person, interviewees noted that the Baltimore City Department of Social Services is undergoing serious and substantial reforms that hold promise for future improvements

²⁷ Testa, 2004.

²⁸ Jeff Katz, Adoption's Numbers Mystery, *The Washington Post*. November 5, 2008.

²⁹ Testa, 2004.

in permanency outcomes for children. There is support, encouragement, and some optimism generated by and for the new leadership in the City Department of Social Services. Progress, it seems to be agreed, is palpable.

There is also clear, compelling, and immediate need for additional reforms—for greater focus, greater transparency, and greater accountability in ensuring that every child who is removed from his/her home by the state and is unable to return to that home, quickly finds another, permanent family. According to an interviewee:

I am the most hopeful I've been since I began this work in 1987. My own view is that [new leaders of the Department of Human Resources and the Baltimore City Department of Social Services] have made a difference; I see bumps in the numbers and a culture change under way within the agency. Adoptions of legally free kids are up. Custody and guardianships are up.

Further progress will depend on greater culture change and a shift in thinking on the part of front-line workers (and attorneys, judges, and masters) that puts an emphasis on permanency alongside safety for kids in the system,...Once the child is safe, permanency should take precedence over all else. ... Assuming safety is assured, permanency is in the best interests of the child. Nothing else is as important.

Interviewees cited the following aspects of *agency practice* as ripe for increased attention and continued reform:

- Conducting effective case practice to standards and on time; and
- Recruiting and working with resource parents.

Conducting effective case practice to standards and on time

The big problem in the city is [conducting and documenting] reasonable efforts towards reunification. The problem is documenting and providing services that amount to reasonable efforts to reunify the child.

Once a child is removed [the department is] supposed to create a service agreement. That starts the problem, they're boilerplate... not individualized; not tailored to parents' strengths/ weakness/ and/or to problem that brought the case to the court's attention.

This causes delays at the 10-month permanency hearing when services haven't been delivered...or documented...so the department gets six months more to do what it already should have done.

Also [delays] happen because of not locating the father. ... If dad never shows up, no one goes to find him then we get to permanency hearing or TPR ... and it still has to be done.
Public Defender, Baltimore City Juvenile Court

Documenting Reasonable Efforts and Notifying Parents

Confirming the sentiments of the interviewees above, according to the annual case-flow assessment conducted by the Associate Administrator of the Baltimore City Circuit Court, in fiscal year 2008, only 19 percent of TPR cases met the standard of having been heard within 180 days of filing. When assessing the cause of delays that led to this poor result, the report notes 84 percent of delays were related to inaction on the part of one or more of the players in the process prior to the scheduled court date:

- 33 percent of delays in the hearing of TPR cases were the “result of individuals failing to appear for the scheduled hearing and delays in the ability to identify, locate and summons the appropriate parents;” and
- 51 percent of TPR-related postponements were “a result of the need for further investigations, evaluation, or other action” on the part of the agency and its workers.³⁰

Concurrent Planning

In addition to the need for individualized case plans, the delivery of services outlined in these plans, and efforts to identify and reach out to absent parents from the start of a case, interviewees also reinforced the need for concurrent planning as dictated by the ASFA. There is the sense that case workers are still slow to pursue permanency options other than reunification and have a tendency to work in a linear, rather than simultaneous, process (that is, hold on to reunification as a sole permanency option and only begin to pursue other options when reunification has been ruled out—often after a number of years have elapsed). As another interviewee said:

They need to work on reunification early and intensively and then move decisively toward other permanency options if that is not moving sufficiently, based on the individual child's needs.

Interviewees were also careful to note, however, that though permanency—alongside safety—should be a driving force in decision-making, there is no ‘one size fits all’ approach.

When thinking about permanency, the cases that should receive priority attention are those where children have been bouncing around among placements—especially non-relative placements. Our interviewee continued:

For example, if a child is with a grandparent and the parent is still involved but not ready to resume parenting-- but grandparent's home is clearly permanently available and the child is doing well, there is not such a rush. Focus on the cases where there needs to be a permanent break from the parent, especially with children in non-relative care.

³⁰ “2008 Annual Case Flow Review, Termination of Parental Rights,” Associate Administrator - Juvenile Division, Circuit Court for Baltimore City.

The approach to permanency needs to be tailored to individual child's needs, not a cookie cutter based on arbitrary timelines. Some children really do okay staying "in the system," especially those with relatives who need assistance but also provide a strong permanent home.

As a key feature of the **Place Matters** initiative, Maryland has made a concerted effort to reduce the number of children in group homes and instead place these children in family settings. In the step down from group homes, the BCDSS has begun to work directly with young people in making placement decisions. Interviewees were very enthusiastic about this process and hoped it might be extended to permanency planning discussions.

[The BCDSS could] expand what they have started to do with talking to the children about where they want to be and try to build the placement around the child's desires and needs and not try to force a child into whatever is available. This means being open to permanency possibly being return to parent as a teen even after TPR if teen can be safe in parent's home. Also, need to talk to the child about options that BCDSS wouldn't ordinarily know about — teachers, coaches, neighbors, etc.

BCDSS Action on TPR

When it comes to agency action on TPRs, three concerns were expressed:

- First, interviewees referred to a committee internal to the BCDSS that requires case workers to meet with department attorneys and 'show cause' for pursuit of a TPR petition before filing. This, they report, is duplicative of the process at court, causes delays based on scheduling within the agency, and—if intended to make sure cases were sound before they proceed—appears to have little effect (given the degree to which incomplete information leads to further delays at the courthouse).
- Second, there is no evidence to suggest that TPR filings are happening as a matter of course for children who have been in care 15 of the last 22 months as per the ASFA. As noted above, only 2.6 percent of children adopted from child welfare in Maryland were adopted within 17 months of their removal from home. The national median for this measure as tracked in the CFSR is 20.2 percent of children who are adopted from public agencies. Moreover, FY09 data from the DHR show that Baltimore City children are spending an average of 64.7 months in care prior to adoption.
- Third, Maryland law allows for "reasonable efforts" toward reunification to be waived if certain conditions exist. These conditions include a prior TPR for a sibling.³¹ While some parents who have experienced a TPR may indeed be able to

³¹ See Code of Maryland Regulations (COMAR) 3-812, Courts and Judicial Proceedings.

care for subsequent children, interviewees report that Maryland has not developed a systematic approach to applying this provision, which may, in turn, be used to expedite alternative routes to permanency for a substantial number of children in care.

Recruiting and working with resource parents

Recruitment

In Maryland, resource parents apply to be and are accepted as both foster and adoptive parents, allowing them to serve in a foster-to-adopt role and saving time in additional screening and approvals later on. This time- and resource-saving approach was the result of previous recommendations about how best to expedite the placement of children in family homes. Over the last two years, the BCDSS has moved to streamline the recruitment process; set consistent guidelines for workers to use in reviewing the applications of potential resource families; and supported a public outreach and recruitment effort, Put a Little Love in Your Life.³²

Even with these improvements, interviewees cite several concerns with existing outreach to potential resource parents—many of which the department itself has acknowledged. They note a general lack of consumer orientation and focus on potential permanent families. Kinship care-givers and potential foster and adoptive parents all receive the same initial orientation, though their needs and interests differ significantly. While the department has put increased emphasis on specialized recruiting to identify families for particular children (more on this below), its recruitment is not targeted to the needs and interests of potential resource parents.

In this, the Baltimore City Department of Social Services is certainly not alone. Child welfare agencies, the Evan B. Donaldson Adoption Institute notes, are primarily in the business of finding families for children, not children for families. Yet, according to the research of the Donaldson Institute, “the most effective way to create permanent, loving homes for waiting children may not be to recruit more families. Rather, it may be to change the system in a way that welcomes and nurtures adults who are willing, and in some cases avidly trying, to adopt a child from foster care.”³³

Nationally, only 6 percent of potential parents who make an initial inquiry to a child welfare agency about adoption go on to have a home study (the formal review that is a necessary pre-condition for adoption); only one in 28 (or 3.6 percent) convert their

³² BCDSS efforts to improve the ways in which resource parents are identified and recruited are detailed in the *LJ v. Massinga Consent Decree Report, 42nd Edition, January 1, 2009 through June 30, 2009*.

³³ “Listening to Parents: Overcoming Barriers to Adoption of Children from Foster Care,” Executive Summary, Evan B. Donaldson Institute, March 2005, 2-3.

interest in adoption to bringing a child into their home permanently.³⁴ The Donaldson Institute research notes that “prospective parents who seek information about adopting a child from foster care are often put off by a system they view as too hard to access and more focused on screening out bad candidates than welcoming good ones.”

To improve upon this conversion rate, the Donaldson Institute recommends that:

Qualified, trained staff manage a specialized adoption hotline: Prospective parents need real and immediate answers to their questions, and should be given a clear outline of the process to adoption;

The emotional needs of prospective parents be addressed: Adoption is a highly charged emotional process for children and prospective parents. Parents who do not feel that their emotional needs are understood—or at least acknowledged—may well go elsewhere; and

The emphasis, at least early on, be placed on recruiting suitable parents versus screening out unsuitable ones: “During initial contact, informational meetings, and orientation, the risk of alienating potentially suitable parents far outweighs that of allowing inappropriate applicants to begin training.”³⁵

Related recommendations:

Screening and training functions should be separated as much as possible; and

Child welfare agencies should incorporate ways to listen and respond to feedback from potential adoptive parents.

While the intention is clearly there, responding to these recommendations appears to be a work in progress for the Baltimore City Department of Social Services.

³⁴ Ibid., 2, 4.

³⁵ Ibid., 4.

Placement

There also appear to be continuing glitches in matching children with potential adoptive parents. In the process of collecting information for this study, we interviewed an approved adoptive resource parent who had this story to tell in February 2009:

I applied to be a resource parent over two years ago—got the beds, the switch plates, everything. Was approved, but no child was placed. I wasn't even presented with one. My home study expired. Re-applied and have been re-approved. But I still don't have a child. I was presented with one child who didn't want to be adopted.

[I] attended a meeting of resource parents with the director (about need to place kids in step down from group homes); many others had similar complaints—we're ready, we've been ready, we still don't have kids. The director had to get special meeting room to meet with us all individually, which she did. Since then (meeting with director), have had follow-up from a BCDSS placement specialist (at the director's request). She's working on it for me. She seems responsive (hope to have a child soon); but why did I have to go through all this?

In a happy ending, when contacted for follow-up in July, this Baltimore City resident noted that he was currently serving as a resource parent for two 13-year-old boys and was planning to adopt one.

Though certainly anecdotal, this story is illustrative of other comments collected during key informant interviews:

- The dissolution of the Adoption Unit (in place through 2002 peak) led to a loss of staff expertise as well as working relationships with private adoption agencies;
- Cumbersome/inefficient contracts with private adoption agencies have resulted in dramatically fewer outplacements through this channel over the last four years than in years previous;
- Case managers seem unprepared to approach young people about possible adoptions. Interviewees cite a lack of training, poor timing, and poor communications with children about potential adoptive families—which, in turn, has led young people to turn down what might have been successful placements;
- BCDSS staff turnover and the lack of consistent follow-through impedes the efforts of private adoption agencies to work effectively with BCDSS case managers on adoption; and

- The presentation of material on potential adoptive children to potential adoptive parents is not standardized or complete, which can dissuade potential parents and lead them to go elsewhere.

In our own interview with the director of the Baltimore City Department of Social Services in March 2009, she acknowledged that efforts in 2008 to improve the way the agency recruits and trains adoptive and foster parents “haven’t worked the way we intended; we are going back again [to seek real improvements].”

She also asked us to be careful of presenting a picture of an agency that no longer exists given the rapid reforms under way—and in this we hope the anecdote of the resource parent captured above is also illustrative. Once he was able to bring his concerns to the attention of the department, they were resolved through the dedicated attention of a capable and committed BCDSS staffer. He is now serving as a foster parent to two teen boys and eventually plans to become an adoptive parent to one of them.

Court Practices

Interviewees for this study, again almost to a person, told us of the strong leadership of the current Chief Administrative Judge and the difference this leadership is making at the courthouse. As one put it, “The current [juvenile court] administration is as strong as it ever has been.”

As evidence of this leadership, over the last two years the court took innovative measures to secure additional judicial resources for a concentrated period of time to process a previously accumulated backlog of TPR cases (where a TPR petition had been filed, but no hearing had been held, in violation of the 180-day standard). Using retired judges and converting a conference room into a court room, the court reduced its backlog of cases exceeding the 180-day time limit from 70 percent of cases in which a TPR petition had been filed to around 25 percent—a level that it has since been able to maintain, although the two temporary judges are no longer in place.³⁶

Other model court efforts such as developing a one family/one master system, solidifying alternative dispute resolution/mediation processes in TPR and Child In Need of Assistance (CINA) cases, developing awareness of educational issues, and generally working on procedures to make the operation of the court more efficient are under way.

³⁶ “2008 Annual Case Flow Review, Termination of Parental Rights,” Associate Administrator - Juvenile Division, Circuit Court for Baltimore City.

Time and Resource Constraints

Interviewees were also almost unanimous in citing the degree to which court resources and time constraints hinder the processing of child welfare cases—and the goal of permanency. “Just do the math,” said one key informant (referring to the average of roughly 120 cases a day scheduled for 6.5 Judges and Masters). Said another: “There are 225 Court days a year; the calendar doesn’t begin to work out to hear all the [CINA] cases—plus TPRs, plus appeals and exceptions. We’re having a difficult time keeping pace with the numbers that are out there. There is just the overwhelming burden of daily docket.”

Others pointed to a Maryland Workload Assessment conducted by the Foster Care Court Improvement Project in 2004 in conjunction with the American Bar Association Center on Children in the Law, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges. Among the key findings:

- The 8th Circuit, Baltimore City, was in need of **an estimated 11 to 16 judges and masters** in addition to those currently working on the bench (emphasis added); and
- Additional attorneys were needed to serve as agency, child’s, and parent’s counsel. “One of the biggest areas of concern expressed by attorneys was that they do not have sufficient time to prepare for contested hearings.”³⁷

Though two temporary judges were assigned on a short-term basis in 2008 to address the TPR backlog, no further action on these recommendations have been made. Staffing levels remain at the 2004 levels.

Judicial Authority to Expedite Permanency

We need pressure from beyond ourselves to initiate changes. [Otherwise] our tendency is towards inertia. It’s all there in writing [benchmarks for permanency] but there’s no accountability [to make sure the process moves along]. The system favors inertia unless you kick it in the pants....

Children’s Attorney, Legal Aid Bureau

This lack of capacity and judicial resources leads, said our interviewees, to a tendency to accept quickly arranged agreements among attorneys for postponements and delays without sufficient attention to the particular needs and circumstances of children and the ticking of the permanency clock. As a local court official noted:

³⁷ Bruce DeFarge, “Foster Care Court Improvement Project: Court Performance and Workload Assessment,” University of Maryland School of Social Work, 2004, as cited in Department of Family Administration, Maryland Administrative Office of the Courts, *Family Matters Newsletter*, Fall 2005.

We can order [the agency] to file [for TPR if cases drag out], but we don't do it a lot. The court is in a ticklish position. Attorneys meet in the CINA suite prior to a hearing and work to agreement. Attorneys come to us with a pre-arranged agreement. Our tendency is to go with this agreement. The pressure is really on us to get our docket completed.

Table 3 compares the barriers reported by interviewees for this study with those identified in a national study five years earlier. In 2004, in honor of National Adoption Day, the Urban Institute's Child Welfare Research Program completed a review of data collected in the process of the federal Child and Family Service Reviews and identified a set of barriers to adoption that were common across all states. As part of the Urban Institute's analysis, a template for assessing and reporting on barriers to adoption was prepared and completed for each state. Table 3 replicates the template for Maryland from the 2004 review and adds a column to the far right to capture information collected for this study. Where a check mark (✓) appears in the far right column, the concern is as equally present in 2009 as it was in 2004. Where a plus sign (+) appears, some improvement appears to have been made. Where a minus sign (-) appears, things appear to have gotten worse. Finally, fields are left blank where the barrier as noted in the template was not reported. This does not mean, however, that these barriers are absent from the Maryland picture, just that they were not reported or recorded in the course of either the Urban Institute study or the current review. We are struck by the remarkable similarity in barriers reported in 2004 and those identified during the course of this study.

Table 3: Barriers to Adoption in Maryland (2004 and 2009)

Barriers common across all states	Barrier present in Maryland as noted in Urban Institute report (2004)	Barrier present in Baltimore/ Maryland as noted in interviews and/or data analysis for current study (2009)
Stages of Adoption		
Entry	Identify placement	
	Finding of abuse and neglect	
Permanency Planning	Initiate concurrent planning	√
	Establish/change goal	√ (+) While concerns about establishing permanency goals persist, attention and energy has been directed to tracking system (even with current concerns about data quality and completeness)
	Hold hearing	√
Termination of Parental Rights	Diligent search (for both parents)	(-) No uniform schedule/ method for tracking and identifying birth parents
	Conduct TPR proceedings	√
	Provide legal services	
	Conduct proceedings for appeal	√ Lengthy appeals process
Adoptive Placement	Recruit adoptive home	√ Reluctant to recruit until after TPR, lack of homes for children with special needs, out-of-state families not actively recruited
	Select adoptive home	√ Lack of use of out-of-state homes, particularly D.C.
	Approve adoptive home	√ Dual licensing not consistent, ICPC delays (interstate adoptions)
	Conduct proceedings for adoption	√ Delays in completing paperwork for finalization
	Establish adoption subsidy/ services	
Agency Factors		
Child Welfare	Case management	(-) Dissolution of adoption unit, frequent staff turnover, inconsistent preparation and presentation of materials
	Resources	√ Recruitment and use of out-of-state resources impacted by financial restraints
Courts	Case management	√ Continuances granted, pro-reunification philosophy
	Resources	√ Lack of sufficient personnel

Table abstracted from *Foster Care Adoption in the United States: A State by State Analysis of Barriers and Promising Approaches*, The Urban Institute Child Welfare Research Program, The Urban Institute, Washington, D.C., November 2004.

IV. What Might Baltimore and Maryland Learn From Elsewhere?

Interviewees have been consistent in their analysis of the current challenges to adoptions and guardianships for Baltimore City children. But what might we learn from elsewhere? A quick look at the current experience of other jurisdictions suggests that making adoption of children from foster care a broad public priority and enlisting other partners, besides the public agencies most directly involved, can dramatically increase the number of children who find permanent homes. Aggressively searching out other relatives of children in care can surface potential adoptive and guardian families. Investing in supports for adoptive families post-adoption can improve success rates (and reduce dissolutions), and providing support to kinship caregivers that might enable them to become licensed care providers (and therefore be eligible for increased state support) can increase the number and success of permanent legal guardianships.

An Adoption Intermediary: Adopt Cuyahoga Kids, Cuyahoga County, Ohio

Responding to an expressed community need to find adoptive homes for children in foster care, the Cuyahoga Community Vision Council began planning for what became the Adopt Cuyahoga Kids initiative in 2004. After an 18-month planning process that involved the local Department of Children and Family Services (DCFS) and was led by the Vision Council, a request for proposals was released seeking a not-for-profit agency to serve as the department's partner in coordinating a response to the need for more adoptive homes. An initial goal of 165 adoptions over three years was set by the partnership.

Adoption Network Cleveland (ANC) was the successful bidder and now coordinates a partnership with the DCFS and 16 other agencies. This partnership, Adopt Cuyahoga Kids, has focused on building a collaborative response to the need for adoptive homes that includes:

- Clearly delineated roles between ANC and the DCFS staff;
- Child-centered recruitment;
- Adoption navigators who help potential adoptive families find their way through the process;
- Public outreach; and
- Policy advocacy.

By 2006, 303 children—almost double the target and almost a year early—had found adoptive homes through Adopt Cuyahoga Kids. ANC also reports a one in eight yield rate for adoptive families; in other words, one out of every eight potential adoptive

families that contact Adopt Cuyahoga Kids completes an adoption.³⁸ Nationally, this rate is reported to be one out of 28.³⁹

The DHR and BCDSS do currently have partnerships with outside adoption and recruitment agencies. Wendy's Wonderful Kids, AdoptUS Kids, and the Maryland Adoption Resource Exchange (MARE) all host public listings of children available for adoption. Through Wendy's Wonderful Kids (a national effort supported by the late Dave Thomas of Wendy's), a full-time recruiter works on placing Maryland children with adoptive families. Yet the public listings of children available for adoption through these mechanisms seem to contain the same 15-30 Baltimore City children, not the full 350 plus who are legally free and waiting. These partnerships are of significantly smaller scale and intensity than the Ohio effort described above.

A State Priority: Florida gains \$10,000,000 in 2009 Adoption Incentive Awards

Originally included as part of The ASFA, the U.S. Department of Human Services offers Adoption Incentive Awards to states that surpass their previous baselines for adoptions with public-agency involvement. In 2009, awards of \$4,000 were made for every child adopted above a state's 2007 baseline. Additional amounts were awarded if a child was older or had special medical needs.

Florida led the nation in 2009 Adoption Incentive Awards with a total of \$9.75 million. Texas was second with a total of \$5 million. As a point of comparison, Maryland, receiving an incentive award for the first time since 2002, was awarded a total of \$196,000.⁴⁰

To what does Florida attribute its success? According to *The Miami Herald*:

*DCF (Florida Department of Children and Families) Secretary George Sheldon credits a statewide campaign spearheaded by Gov. Charlie Crist and Lt. Gov Jeff Kottkamp called Explore Adoption, that sought to debunk many of the common myths about adoption from state care. ... Families that adopt foster children, for example, can receive state college tuition waivers, health insurance under Medicaid, and a monthly stipend to help defray the costs of raising a child.*⁴¹

³⁸ For more information about Adopt Cuyahoga Kids, see: Administration of Children and Families, Department of Health and Human Services, "Adoption Excellence Awards 2009," accessed at http://www.acf.hhs.gov/programs/cb/current_initiatives/aeawards09.htm; and "Adopt Cuyahoga's Kids Covers all the Bases," *Adoptalk: The Newsletter of the National Council on Adoptable Children*, Summer 2006.

³⁹ Donaldson Institute, 2005, 4.

⁴⁰ 2009 Adoption Incentive Awards, Administration of Children and Families, accessed at http://www.acf.hhs.gov/news/press/2009/fy09_adoption_incentive_awards.htm.

⁴¹ "Florida's adoption program gets \$10 million," *The Miami Herald*, September 18, 2009.

While the same benefits are available to adoptive families and children in Maryland, we do not currently have the same level of public leadership and visibility.

Family Finding

Recognizing that lost relatives are a largely untapped resource for adoption, the Foster and Adoptive Care Coalition in St. Louis, Missouri, engages in an intense 12-20 week search for family connections and potential adopters for children in foster care. Family Finding, a method first pioneered in Washington State, uses the internet, telephone, advertisements, and even door-to-door searches—and it yields results. In both St. Louis and Washington, many more children have been placed in permanent homes through the family connections that were surfaced. In Washington, the pioneering effort located 40-150 relatives for each child whose case it undertook.⁴²

Baltimore successfully used some of the tenets of Family Finding in the step down of older children from group home care. Our interviewees recommended that “the same intensive efforts used to find families for kids in the step down from group homes should be used across the board.”

Supports for Families

In addition to these jurisdiction-specific examples, the research literature on achieving permanency for children in foster care is very clear about the contribution that additional and direct support to permanent families can make to establishing life-long relationships for children who have been in care. With respect to adoption, the research describes and recommends:

- Post-permanency services to keep adoption and guardian families together—including mental-health programs, counseling, respite care, support groups, and recreational activities for youth and their families;⁴³ and
- Flexible financial support for kinship caregivers so that they can shore up minor home safety concerns and make other improvements that would allow them to become permanent legal guardians for the children for whom they already provide a stable and safe home; the same sorts of post-guardianship supports that are recommended for adoptive families should also be available.

⁴² See, for example, Erick Eckholm, “A Determined Quest to Bring Adoptive Ties to Foster Teenagers,” *The New York Times*, January 31, 2010.

⁴³ Testa, 2004.

V. How Might Maryland Pay for Additional Reforms?

Even with the very difficult fiscal environment in which we find ourselves, Baltimore and Maryland may well be able to identify additional resources to promote adoptions and guardianships, and make other improvements to enhance the well-being of children in foster care. They may accomplish this by examining their track record in claiming matching funds through the federal Title IV-E Foster Care program, implementing key components of the Fostering Connections Act, pressing for greater use of the federal adoption subsidy program, and exploring a Maryland Opportunity Compact agreement for adoptions and guardianships.

Title IV-E Foster Care Program⁴⁴

Under Title IV-E of the Social Security Act, federal matching payments—officially referred to as Federal Financial Participation or FFP—are made to states for foster care expenses (room and board), adoption assistance, and guardianship assistance for eligible children. Match rates are set by a formula, consistent with the Federal Medical Assistance Percentage (or FMAP) for Medicaid, that takes into account a state’s per capita income, among other factors. Generally, the amount of Maryland’s federal match, or FFP, is 50 percent of each eligible claim.

Through the American Recovery and Reinvestment Act (ARRA), the FMAP was increased by a formula that included the unemployment rate for each state. With the ARRA increase, Maryland’s FMAP—and hence its FFP—is currently set at 56.2 percent. It will stay at 56.2 percent until the close of calendar year 2010 (December 31, 2010), and then, absent further federal action, revert to 50 percent.

For a child to be determined eligible for an IV-E claim:

- At the time of removal, a child’s family must have been a recipient or eligible for income support based on a state’s AFDC standards in place on July 16, 1996 (before the passage of federal welfare reform);⁴⁵
- For court-ordered placements, the court must have found that placement in care is in the child’s best interest, and reasonable efforts to prevent placement have been made or are not required to be made;

⁴⁴ Source material on the IV-E program was drawn from “Title IV-E Foster Care Program,” Child Welfare League of America, accessed at <http://www.cwla.org/advocacy/overviewtitleIV-E.htm>; and “Title IV-E Adoption Assistance and Foster Care Programs,” Department of Health and Human Services, accessed at <http://www.hhs.gov/recovery/programs/acf/adoption-foster.html>.

⁴⁵ Since 1980, IV-E eligibility has been linked to the AFDC eligibility of a child’s birth parents. Despite the fact that AFDC was replaced by Temporary Assistance to Needy Families (TANF) in 1996, the IV-E link to AFDC eligibility remains.

- For voluntary placements, a court must find within 180 days that the placement is in the best interest of the child or that continuation in his/her own home would be “contrary to the welfare of the child;” and
- For both court-ordered and voluntary placements, the court must find that reasonable efforts to finalize a permanency plan are being made and updated annually.

Maryland regulations further specify conditions under which reimbursement may be claimed for foster care maintenance payments for eligible children. According to COMAR 07.02.11.27.M:

Only the following may be determined to be reimbursable placements:

(1) A licensed or approved foster family home;

(2) A private, nonmedical group home or residential child care facility licensed by the State; or

(3) A public nonmedical group home or child care facility which has a licensed capacity of less than 26 beds.

There is no cap on federal IV-E funding—the amount available to be claimed is limited only by the number of children eligible for assistance and the federal match rate. Federal funding is contingent, however, on an approved state IV-E Plan to administer and supervise the program. Additional IV-E funds, beyond the matching payments for children, are also available to manage the program, to train staff and foster parents, to recruit foster parents, and for other related expenses. Claims for administration and training expenses each follow different formulae, though both incorporate the percentage of a state’s IV-E eligible children in the determination of the amount of federal support.

Over the last 10 years, according to estimates generated for this report based on an analysis of foster care payments in the state budget, the percentage of adoption and foster care cases for which Maryland has received a IV-E reimbursement has dropped from 58 percent (in 2000) to 41 percent (in 2010)—a decline of 17 percentage points.

State Fiscal Year	Estimated Reimbursement Rate (1)	Estimated Federal Fund Attainment Rate (2)	Data Source for Estimate
2000	58.1% of payments	29.1%	FY02 MD Budget
2001	57.8% of payments	28.9%	FY03 MD Budget
2002	50% of payments	25%	FY04 MD Budget
2003	52.8% of payments	26.4%	FY05 MD Budget

2004	44.4% of payments	22.2%	FY06 MD Budget
2005	51.6% of payments	25.8%	FY07 MD Budget
2006	53.9% of payments	26.9%	FY08 MD Budget
2007	45.8% of payments	22.9%	FY09 MD Budget
2008	45.2% of payments	22.6%	FY10 MD Budget
2009	41.0% of payments	22.4%	FY11 MD Budget

Defined as IV-E eligible and reimbursable population over total foster care and adoption subsidy population. Data are estimated % of foster care and subsidized adoption payments reimbursed at appropriate FMAP IV-E match for that year: 50% in FY2008 and prior fiscal years and a weighted 54.6% for FY2009 (1st quarter at 50% and final three quarters at 56.2%) and 56.2% in FY2010 and FY2011 and are derived from the estimated Federal Fund Attainment Rate (see below).

Defined as IV-E foster care maintenance and adoption subsidy payments over total foster care maintenance and subsidized adoption spending. Estimated percentages derived from actual budget documents.

Part of this decline may well be attributed to what is often referred to as the federal foster care look-back, or the fact that initial IV-E eligibility remains tied to income thresholds that would qualify the family of the child’s origin for AFDC in 1996—with no adjustments for inflation.

This is a policy and equity issue that has received considerable attention from the Pew Commission on Foster Care and the Child Welfare League of America, which has tracked a national decline in IV-E eligibility of 10-11 percentage points since 1996.⁴⁶

Offering a guess on the degree to which Maryland’s decline in IV-E reimbursements is attributable to factors within the control of the DHR and BCDSS (such as determinations of children’s initial eligibility, documentation of reasonable efforts, and the ongoing reimbursability of foster care placements) rather than to the look-back—and providing a reliable estimate on the fiscal impact of the same—is well beyond the scope of this paper. We do note, however, that the decline of cases for which a IV-E reimbursement was received in Maryland is greater than the national decline attributed to the IV-E look-back by the Pew Commission and the Child Welfare League.

Simple math tells us that this is worth further exploration.

- According to the DLS, in state fiscal year 2010, Maryland is anticipated to make foster care and adoption payments for 15,328 children at an average monthly rate of \$1,965 per child.⁴⁷
- This averages out to an annual cost of \$23,580 per child.

⁴⁶ See “Fix the Foster Care Lookback,” Pew Charitable Trusts .2007; and “Ten Years of Leaving Foster Children Behind,” Child Welfare League of America, 2006.

⁴⁷ DLS, Analysis of the FY 2010 Maryland Executive Budget, 2009, N00B Social Services, Department of Human Resources, 11.

- At a match rate, under the ARRA, of 56.2 percent, Maryland could claim federal funds in the amount of \$13,252 for each eligible child.
- If we are missing claims for just 5 percent of foster care and adoption cases, an additional 766 children could be eligible for reimbursement, yielding an additional \$10,151,032 in federal funds (766 x \$13,252 = \$10,151,032).

Increasing the percentage of children for whom foster care maintenance payments and adoptions subsidies are received also increases the amount of IV-E matching funds for training and administration that the state is able to claim. Every federal dollar claimed frees up a state dollar that could be re-directed toward further improvements in child welfare.

Fostering Connections Act: Expansion of Federal Adoption and Guardianship Subsidies

The Fostering Connections Act of 2008 expanded pre-existing federal support for adoption and guardianship subsidies in two significant ways:⁴⁸

- 1) It laid out a timetable for “de-linking” federal support for adoption subsidies from the old AFDC provisions:
 - o Beginning in federal fiscal year 2010 (that is as of October 1, 2009), children who have been in care for more than 60 consecutive months and who are 16 or older, along with their siblings, are eligible for a federal adoption subsidy, regardless of IV-E eligibility;
 - o Further extensions of the federal subsidy—and the de-link from IV-E—roll out on the schedule below:

Federal Fiscal Year	Age of Eligibility
2011	14 and older
2012	12 and older
2013	10 and older
2014	8 and older
2015	6 and older
2016	4 and older
2017	2 and older
2018	All children

⁴⁸ Much of the information describing the expansion of federal adoption subsidies under the Fostering Connections Act has been abstracted from *Providing Federal Adoption Assistance to More Children with Special Needs: A Welcome Change*, North American Council on Adoptable Children (NACAC), July 2009.

- Congress also included a Maintenance of Effort (MoE) requirement to ensure that as federal support increases, state funds previously spent on state adoption-assistance programs will remain in the child welfare system.⁴⁹
- 2) Though it did not de-link guardianship subsidies from the old AFDC requirement, it extended federal IV-E support for guardianship subsidies to states for eligible children without the need for states to seek a waiver, provided states submit amendments to their IV-E plans describing how such subsidies will be managed.

By pro-actively moving to take full advantage of the adoption subsidy ‘de-link’ and amending Maryland’s IV-E plan to claim additional federal support for guardianship subsidies—which are largely state supported now— more federal funds can be made available for child welfare and related investments in Maryland.

Federal Adoption Incentive Awards

The Adoption Incentives program was created as part of the Adoption and Safe Families Act of 1997. The original program authorized incentive funds to states that increased the number of children adopted from foster care. In order to get payments, states had to increase the number of children adopted relative to baseline data.

Under the Fostering Connections Act, adoption incentives were revamped to provide stronger incentives for states to find permanent adoptive homes for children— particularly older children and children with special needs. Currently, the Adoption Incentive program gives states \$4,000 for every foster child adopted above their 2007 baseline, plus a payment of \$8,000 for every foster child age 9 and older, and \$4,000 for every other special-needs child. In addition, states receive \$1,000 for every foster child adopted over and above the level of the state’s highest foster child adoption rate (calculated as the rate of children adopted over the total number of children in care) for previous years.⁵⁰

In 2009, the U.S. Department of Health and Human Services awarded \$35 million to states in Adoption Incentives. As noted earlier in this paper, Florida received \$10 million and Texas \$5 million. Maryland received \$196,000—its first incentive award since 2002.

If and as Maryland makes further moves to increase adoptions, additional federal resources through adoption incentives can be made available.

⁴⁹ NACA, July 2009.

⁵⁰ “HHS Awards \$35 million to States for Increasing Adoptions,” U.S. Department of Health and Human Services, September 14, 2009, accessed at: <http://www.hhs.gov/news/press/2009pres/09/20090914a.html>.

Maryland Opportunity Compact

The Maryland Opportunity Compact is a financing and policy innovation designed to improve outcomes for the state's children and families, and to avoid long-term state expenditures. Opportunity Compacts leverage investments of private-sector resources to seed effective strategies that improve lives—strategies such as drug treatment, case management, and jobs. These investments reduce the need for public expenditures and save government money as a result. As savings are documented, they are shared between the effort that created them and the state—sustaining efforts beyond a start-up phase and then further expanding opportunity and improving the lives of more Marylanders.

Three existing compacts are:

Reducing long-term foster care costs by providing drug treatment and case management services to parents, expediting reunification when parents are successful in their treatment, and identifying other permanent families for children when they are not;

Avoiding the costs of juvenile detention, reducing re-arrests, and improving young people's well-being by providing community-based services and supports through the nationally recognized Multi-Systemic Therapy Program; and

Reducing prison costs and recidivism through the appropriate release of ex-offenders, community-based drug treatment, case management, and employment.

A clear strategy to increase adoptions from the BCDSS might also be 'compactable.' Considerable evidence exists that adoption of children who had been in a child welfare system yields a high rate of return on investment. For example, independent research conducted by Mary Eschelbach Hansen of the American University finds that:

Each adoption (from child welfare) nets between \$88,000 and \$150,000 in private benefits and \$190,000 to \$235,000 in total public benefits. Thus each dollar spent on the adoption of a child from foster care yields between \$2.45 and \$3.26 in benefits to society.⁵¹

While the historic recession our country is experiencing and the concurrent budget shortfalls constrain the prospect of finding *new* funding in the short term, Maryland can explore immediate opportunities to maximize federal funds and generate a return on investment that can free up resources to expedite permanency and improve the well-being of children under the state's care—even given the tightly constrained fiscal environment.

⁵¹ Mary Eschelbach Hansen, "The Value of Adoption," The American University, Department of Economics, Working Paper Series, NO. 2006-15, December 2006.

VI. Recommendations for Increasing the Rate, Pace and Success of Adoptions and Guardianships for Baltimore City Children

Because of the consistency in the barriers that surfaced over the course of this study, the urgent need to find children permanent homes, and the clear room for improvement, immediate opportunities to further the reforms already under way by the Baltimore City Department of Social Services and the Baltimore City Circuit Court have emerged.

- The Maryland judiciary can and should *address chronic staffing and resource shortages at the Baltimore City Juvenile Court*—the court that hears all cases related to children under the care of the Department of Social Services. One judge, one master, and two additional court rooms should be added in the next fiscal year, and space for courtrooms in the Baltimore City Juvenile Justice Center should be found. The need for further judicial resources should then be assessed against the volume of cases and re-addressed in two to three years, once the initial infusion of resources has had time to take effect. Back-of-the-envelope estimates place the cost for staffing and outfitting an additional courtroom at \$500,000.⁵² This is, no doubt, a difficult climate in which to ask for an infusion of resources, yet should Maryland move quickly to recoup and increase federal matching funds, sufficient state resources can be freed up for this important, and necessary, investment.
- As some of the pressures on the docket ease through additional resources—and even as these additional resources are advocated for and put in place—the Baltimore City Juvenile Court, and its colleague child, parent, and BCDSS attorneys, can and should join together to *put in place additional supports and incentives to expedite permanency for Baltimore City children in foster care*. This work should begin with the question: *How can we make each appearance at the Court an opportunity to move more quickly toward permanency?* As suggested by interviewees for this study, items under discussion may include:
 - Trigger mechanisms in the court data and tracking system that note when a case has reached critical benchmarks so that it can be flagged for action;
 - Training and tools for judges and masters that include a summary of the research findings on permanency, a review of the court’s role in moving cases along, and suggested questions and action steps at each stage of the judicial process; and
 - Scorecards that track the performance of individual judges and masters in getting cases to closure.

⁵² This is a very rough estimate derived from projected costs for an additional judge; court and agency personnel; and courtroom space, materials, and supplies.

- The Baltimore City Department of Social Services and the Maryland Department of Human Resources can and should *make clear plans for the Place Matters Initiative as it moves beyond an initial emphasis on the step down from group homes to placing more children in permanent families*. These plans should include:
 - The use of administrative data to identify and group cases for expedited action toward permanency (i.e., cases where kinship caregivers might be converted to permanent guardians, where adoption is the permanency plan but a TPR has not yet been filed, where two or more placements have been made and the child is with a non-relative caregiver, or where a child has been in care for more than 24 months with no action toward permanency to date);
 - Support, training, and tools for caseworkers and their supervisors that detail responsibilities for establishing a service agreement, locating absent parents, notifying relatives, documenting ‘reasonable efforts,’ pursuing concurrent planning, and outlining specific action steps when adoption and/or guardianship becomes the permanency plan;
 - Performance assessments and incentives for caseworkers and supervisors tied to permanency benchmarks;
 - Improved preparation and filing of petitions for TPR on the schedule mandated by the ASFA, and outlining procedures for the use of the provision to waive attempts at reunification (and including a review of the need for the ‘show cause’ committee);
 - Continued improvements to efforts to recruit and support foster and adoptive parents;
 - An enhanced approach to adoption that:
 - Clearly outlines a role for private adoption agencies;
 - Uses more sophisticated methods to identify, recruit, and retain potential adoptive parents; prepare children for adoption; and match families;
 - Considers establishing an intermediary to handle parent recruitment and relationships between private providers and the state, and to set adoption goals and monitor progress;
 - Is perhaps sustained through a Maryland Opportunity Compact agreement or other means to capture a return on investment and use avoided costs to support the effort moving forward.
 - An enhanced approach to guardianship that:

- Identifies and offers flexible financial support for kinship caregivers so that they can shore up minor home-safety concerns and make other improvements that would allow them to become permanent legal guardians for the children for whom they already provide a stable and safe home; and
 - Cleans up data and reporting issues so that progress on guardianship can clearly be tracked.

- As a potential means for paying for the above reforms, and others required across the child-welfare system, the Maryland Department of Human Resources, the Maryland Department of Budget and Management, and the Department of Legislative Services should *track and independently report Maryland's history of IV-E claiming, eligibility, and penetration rates for both adoption and foster care maintenance payments*. Based on an analysis of Maryland's IV-E claims history over the past 10 years conducted for this report, it appears that the DHR may not be receiving all of the IV-E funds for which it might be eligible. If an under-claim exists, *the DHR should produce an action plan and timeline for recouping federal funds*.

- This plan should be produced in conjunction with *a plan for utilizing key provisions of the Fostering Connections Act* and further reducing any remaining financial disincentives to permanency. This should include:
 - A plan for the expansion of eligibility for adoption subsidies (which happen regardless of amendments to the IV-E plan);
 - A determination of how best to coordinate the state's current guardianship subsidy program with the expanded IV-E eligibility under Fostering Connections, and ensure that all families who might be able to take advantage of this funding mechanism are made aware of the opportunity;
 - Amendments to the state's IV-E Plan as required for claiming these subsidies; and
 - A clear investment strategy that lays out how recouped state funds, freed up by increased federal claiming, and any further federal funds received through increased Adoption Incentive awards, will be re-invested in improvements in child welfare to meet federal MoE requirements and, most important, to expedite permanency for children under the state's care.

Building on the promising reforms and the strong leadership already in place, these steps should lead to measurable improvements in the number of Baltimore City children who find permanent families.

Neither the courts nor the BCDSS can accomplish this work on their own, however. Additional action is also required on the part of the broader community in whose name children have been removed from their homes. Here, as well, immediate opportunities exist:

- We can step up in ever greater numbers to serve as foster and adoptive parents;
- We can ask our elected officials to provide necessary resources and direction to public agencies and their leaders to enact suggested reforms;
- We can join with these agencies as private funders and volunteers to seed and support further innovation; and
- We can continue to demand accountability for progress—measured and reported in publicly available, clear, and consistent ways.

On this last suggestion, we have more to say. Reflecting anxiety about the DHR's performance, there are a dizzying array of reporting requirements for child welfare—each put in place to address the needs of a particular constituency at a particular time. The Maryland Child Welfare Accountability Act and the annual Child Welfare Accountability Report, the LJ v. Massinga Consent Decree and Maryland StateStat all track a different set of performance indicators—none of which is wholly consistent with required reporting for the federal Child and Family Service Review. There are no public data readily available tracking year-to-year trends in performance at the local jurisdictional level.

Several states, California and North Carolina foremost among them, have devoted time and resources to transparent, jurisdictional-level reporting on child welfare outcomes with the inclusion of trend and comparison data.⁵³ These reporting systems are the result of collaboration between public child welfare systems and public universities. The DHR is in the beginning stages of such a partnership with the University of Maryland School of Social Work—the initial results of which have been the first filing of a Maryland AFCARS report in three years (in December 2008), and two consecutive Maryland Child Welfare Performance Indicators reports. The cause of public education reform in Baltimore, in Maryland, and in the country as a whole has been greatly advanced by clear, consistent school-level data on performance that has highlighted racial and economic disparities and contributed to a sense of urgency. The cause of children under the care of the DHR and BCDSS deserves no less attention. We can't know where we're going unless we know where we are.

⁵³ For California's reporting system, see http://cssr.berkeley.edu/ucb_childwelfare/Ccfsr.aspx. North Carolina's system can be found at <http://ssw.unc.edu/cw/>.

Finally, we must couple our call for immediate and urgent action with a recognition of just how far the Maryland Department of Human Resources and the Baltimore City Department of Social Services have come—have had to come—in the past two years, and how much further there is to go. The current BCDSS leadership (in place since 2008) inherited a system that, from all available evidence, was in complete disarray. Progress is being made. However, further progress will depend not just on clear-eyed leadership from within the agency, but also on the following:

Greater attention from the governor, the legislature, and the broader public;

An evolution of the Place Matters initiative beyond the step down from group homes to a laser-like focus on the identification of a permanent family for every child in care;

The inclusion of a broader set of partners in this work; and

Clear, transparent accounting in the public domain for expenditures and outcomes.

A Note about Methods and Sources

This study has relied on administrative data from federal, state, and local sources; key informant interviews with policy makers, court officials, child welfare researchers, and local advocates concerned about the well-being of children in Baltimore and Maryland; a scan of the research literature; and a review of policies and regulations governing the out-of-home placement of children.

Because no single source tracks child welfare performance data for Baltimore and for Maryland across the range of indicators and measures examined in this study, even with considerable assistance from the Maryland Department of Human Resources, information had to be pieced together from a variety of sources to capture current status, construct trends, and attempt meaningful comparisons. Efforts have been made to note differences in the time frame of measurement and the definitions of measures where they exist, and to qualify the interpretation of data in the text. Readers are asked to review the information presented here with these caveats in mind.

We note that this is by no means an exhaustive review though we have tried diligently to surface the most salient issues and concerns; highlight bright spots where they exist; and derive reasonable, actionable recommendations. In this, we hope to contribute in a small way to the critically important work of helping more Baltimore City children in foster care find permanent homes with families they can call their own.

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Interviewees (in alphabetical order):

- Bill Buckner, Director of Consulting Engagements, and Gretchen Test, Senior Associate, Casey Strategic Consulting Group
- Charlie Cooper, Co-Chair, the Coalition to Protect Maryland's Children (and former Executive Director of the Maryland Citizen's Review Board for Children)
- Carol Edelstein, Director, Adoption Works, Adoptions Together
- Andy Freeman, Attorney and Board Chair, Family League of Baltimore City (and former Emergency Foster Care Parent)
- Rob Geen, Senior Fellow, Child Welfare, Annie E. Casey Foundation (who served as a WT Grant Foundation Distinguished Fellow with the Income Security and Family Support Subcommittee of the House Ways and Means Committee during the time the Fostering Connections Act was developed and passed)
- Gerry Grimm, Fiscal Specialist, Innovations Institute/ University of Maryland Medical Systems/ Department of Psychology
- Judge Edward R.K. Hargadon, Administrative Judge, Family and Juvenile Court, Baltimore City Circuit Court
- Dale Hendrick, Associate Administrator, Baltimore City Circuit Court
- Matthew Joseph, Executive Director, Advocates for Children and Youth
- Susan Leviton, Professor, University of Maryland School of Law; Past Co-Chair of the Governor's Task Force on Adoption (1995 and 1987); and founder, Advocates for Children and Youth
- Rhonda Lipkin, Co-Counsel, LJ v Massinga, Public Justice Center
- Joan Little, Chief Attorney, Baltimore Child Advocacy Unit, Maryland Legal Aid Bureau
- Theresa Markowitz, Special Assistant to the President, the Annie E. Casey Foundation
- Molly McGrath, Executive Director, the Baltimore City Department of Social Services
- David McNear, Independent Fiscal and Policy Consultant
- Charquis Meadows, Permanency Planning Liaison, Baltimore City Circuit Court
- Jennifer Miller, Co-Principal, Child Focus Consulting
- Dawn Musgrave, Executive Director, Adoptions Together
- Stephanie Pettaway, Campaign Fulfillment Director, AdoptUS Kids and Former Adoption Manager for the Maryland Department of Human Resources
- Justin Reyna, Executive Director, The Family Recovery Program
- Reverend Kinji Scott, Co-Chair, Maryland Juvenile Justice Coalition
- Matthew Shaffer, Wendy's Wonderful Kids Placement Specialist assigned to Baltimore City, DARCON
- Vanita Taylor, Chief Attorney, Child in Need of Assistance (CINA) Division, Office of the Public Defender

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